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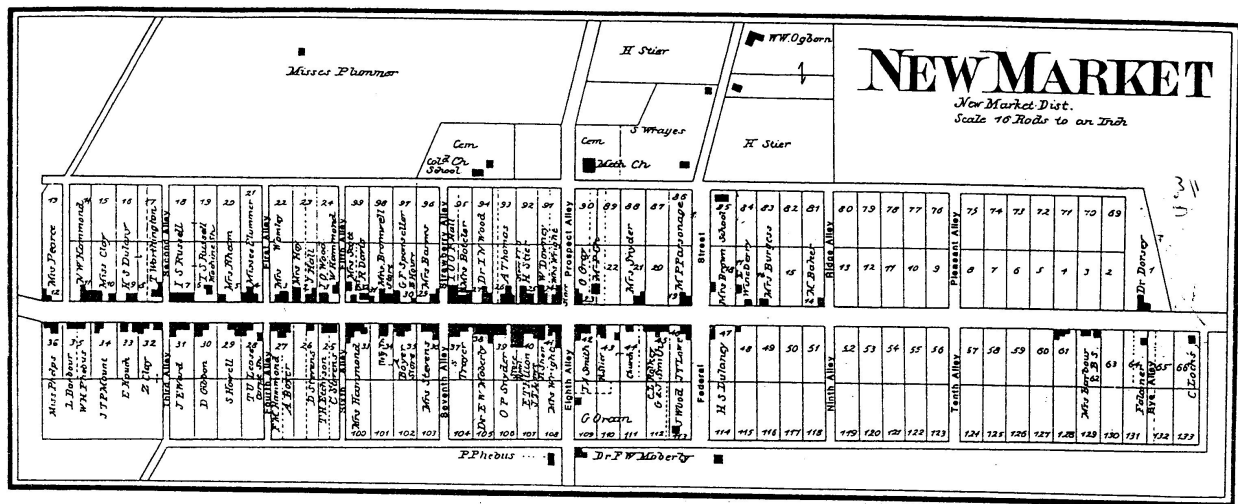
- A. Design Standards for New Market
- B. Town of New Market Development Capacity Analysis, MDP, November 2009
- C. Wilson T. Ballard Traffic Summary
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## I. CULTURAL HERITAGE AND IDENTITY

The community of New Market had its beginning in 1747, the year when Nicholas Hall began acquiring land. The first land grants were made to John Dorsey and Samuel Plummer in 1743. Hall's estate was known as New Market Plains and was composed of the following acquisitions:

Batchelor's Harbor	105 acres
Dorsey's Friendship (part)	475 acres
Dorsey's Chance	175 acres
Bush Creek Mountain	25 acres
Hunting Lot (part)	226 acres
Hard to Find	38 acres
The Second Surprise Recovered	5.5 acres

The landowners in and around present day New Market were country gentlemen who spent their time fishing and hunting. The work of these large estates was left to slaves, both white and black. One of the more wealthy local residents, William Hobbs, acquired the title "King of Covicts" from his practice of meeting the prison ships in Baltimore and selling his "catch," always keeping the best for himself.



Town As Platted in Frederick County Land Records

In 1788, Hall laid out the Town of New Market (Hall himself may have come from New Market, England) and the following advertisement appeared in several local papers:

"Laid out for a town to be called New Market, on Public road. Grading from Frederick Town to Baltimore about nine miles from Frederick: Two principle streets in the town are 66 feet, the other 50 feet wide, three others 33 feet wide. Lots are 66 feet front, 165 feet back. There is reserved a lot of ground for a Market House and a Church. The lots are to be sold by Nicholas Hall, living

near premises. Lots bounding on Main Street will be sold for 3 pounds current money each. The lots back at forty shillings each; all subject to an annual ground rent of 5 shillings to commence May 5, 1788" (History of Western Maryland, Schart. Vol.1, page 607)

William Plummer, son of Samuel Plummer, built the first home in what is now New Market. Built in 1790 as the main house for the Plummer Farm, it is still standing on the corner of First Alley, on lot #4, in "Plummers Part of New Market." It is registered as the VanKirk Fehr home, currently addressed as 51 West Main Street.

Plummer's house was not considered to be in the Town of New Market. Plummer resurveyed the town along Hall's lines in 1792 as far as Fifth and Sixth Alleys, which became known as Plummer's Part of New Market. The lot numbers were different and the lots were subject to a ground rent of 5 shillings per year.

In June of 1793, Hall entered a plan of New Market under a deed of trust in the land records of Frederick County. New Market was laid out into 170 lots. This was the founding Main Street (or Old National Pike or Rt. 144). It is now an incorporated municipality of Frederick County and recognized on the National Register.

There were two streets: Main Street and Federal Street. Main Street was part of the National Road between Baltimore and Frederick. The first lot was sold to William Ballenger for 4 pounds 10 shillings. However, George Smith, a German, had the honor of erecting the first house after the town was laid out. It is still standing on the northwest corner of Main and Federal Streets, currently addressed as 17 East Main Street. Smith used the house as a tavern or inn. It is registered as the Charles A. Jackson home. The house is typical of rural Post-Colonial architecture in Maryland.

There have been few or no changes made to the exterior since it was erected.



Looking at the first traceable buyers, we find that William Ballenger bought lots #23 and #90, and built his home, now the Methodist Parsonage, and also lots #28 and #96, where he built another house which today is the Parkside Antique Shop.

William Wood constructed a house on lot #37. At one time, it was used as a private school taught by Miss Annie Pearce. John Roberts purchased lot #40, which at times has been both a store and a hotel. The original structure has seen considerable changes including the addition of a third story. It is now Mealey's Restaurant, currently addressed as 8 West Main Street.

In addition to the lots purchased by George Smith, already mentioned, the fifth purchaser was Caleb Pancoast, who bought lot #21. The structure built on the lot is of the Federal Period (1800-

1830). One of the first post offices in the County was started in 1798 in New Market in the structure built on lot #25. It was also used as a hotel. Guests were billeted upstairs and the only means of exit was through a small room in which sat the owner or watchman. The guests were thus always sure to pay their bill. The house also contained a "whiskey room" selling whiskey by the glass. This was also a general store, and in 1840 it was known as the National Hotel. This structure is currently addressed as 5 West Main Street.

During the Civil War, the Downey home on lot #24 and "necessary building" behind it, housed the guns and ammunition of the Linganore Mounted Guard. This caused considerable excitement in the community until seized by Union troops. Lot #27 is the site of one of the buildings used during the Civil War as a Union Army guardhouse. The Downey home is one of the



few examples in the town of the Revival Period of architecture. One of the principle features of the Revival Period was moving the door to one side of the front of the house instead of making it the central feature. The lines around the door are long and vertical and the trimming is simple.

In March 1878 the Town of New Market became incorporated. About this same time, the town's population was 402, practically the very same as estimated for January 1, 1969.

New Market has some of the best examples of restored Federal Period homes in Frederick County. Most of the structures in the Historic District date to the Federal Period; however, many have been remodeled with Victorian era alterations or changed so as to obliterate all but a fraction of their original architecture.

The Stull Kemp home, currently addressed as 14 West Main Street, is one of the best examples of the Federal Style in New Market. Made up of red brick with two end interior chimneys, it



exhibits practically all of the characteristics of that period. It has curves, festoons, and interlaces on the exterior cornices

In the past, the doorways were the focal point for decorative detail. The Fanlight Door, or a door having the pediment pierced by a fanlight, became popular in this country during the Federal Period. The doorway to the Stoll Kemp home has such a treatment coupled with ionic columns on each side.

The Palmer home, currently addressed as 20 West Main Street, was built in 1800, and shows some of the characteristics of the Post-Colonial Period as well as the Federal. Its three chimneys, each in the middle are typical of the Federal Period. The window treatment shows the influence of the Post-Colonial Period. The John Morris Prosser home, currently addressed as 25 West Main Street, is



another example of Federal Period architecture. It is the only stone house in New Market. The wooden portion of the house is a later addition. The high upper story windows show the Post-Colonial influence.



The town has some very good examples of the Victorian style of architecture (1835-1900) within the Historic District. The house currently addressed as 33 West Main Street, built around 1880, is such an example.

The historical development of the town had a strong influence on the



manner in which past land use decisions were made and will continue to be a significant factor in the decision-making of tomorrow. Once a major stopping point for settlers traveling on the National Pike from Baltimore to points west, New Market at its earliest was a booming commercial center, boasting numerous rooming houses, taverns, inns, and stores. In fact, the first house built after the town was founded was used as a tavern. A variety of service occupations existed as well, such as blacksmiths, wagon makers, wheelwrights, tanners, etc. all toiling to support the diverse needs of travelers passing through. With few exceptions, these individuals resided on the property where the service was offered. Throughout most of its history, New Market's land uses have been predominantly residential in nature with businesses mixed in and surrounded by land used for agriculture. Among the few early industrial establishments, which did exist, were a metal and bone button factory and a forge for making wrought iron nails. Located nearby were a mill near Monrovia, a glass factory, a woolen factory, and a tannery, although it is not known whether these industries were active concurrently.

After the opening of I-70, a multi-lane highway that replaced the National Pike, through traffic was diverted away from town but commuter traffic still used Main Street to access the Interstate. New Market was left much to itself until recently. Today, the town again serves a transient population, but one of a quite different sort - tourists in search of diversion instead of pioneers in search of a new life. The nature of the commercial enterprises currently in operation makes New Market unique among all towns in the County. Of the establishments located in the town, about six are antique shops, the first having opened in 1936. At one point, the town became identified as the "Antiques Capital of Maryland."

The economic downturn that began in the fall of 2008 has taken its toll on New Market business. Few, if any, service establishments now exist but most of the individuals conducting business still reside on the premises. There is currently only one food enterprise: a pizza carryout located in the General Store. Both Mealey's and Mallard's restaurants have been closed for several years but Mallard's is currently undergoing renovations to open as Milo's, serving Italian food and ice cream. Only one bed and breakfast inn remains. As a result of the national woes, the Residential Merchant District has suffered a significant decline.

One trucking terminal has been in operation for over sixty years, commencing prior to the adoption of zoning. Land devoted to public and semi-public uses is still smaller in percentage than in other communities. An elementary school was located in the town in the early 1800s. Two separate schools existed at one point, later combined into a single institution in the mid-1960s. The present elementary school, built in 1931, has been expanded at least twice. Supplemented by a middle school in 1979, the acreage taken up by these schools accounts for almost all of the public land use. The town has a fair share of semi-public institutions: three churches, two fraternal organizations, a grange hall, a fire hall, a Post Office, and a town office and hall.

Whether described as a rural community in the 1992 Master Plan of New Market, a "district community" in the draft Frederick County Region Plan of 2003, or a Community Growth Area in the 2010 County Plan, the Town of New Market retains its historical importance to Frederick County, the State of Maryland, and indeed, the nation itself. This historical significance resides in the architecture of the homes and antique shops in the town's Historic District. These structures represent the architecture of the Post-Colonial, Federal, and Victorian periods of the United States. The Historic District formed by these structures is the town's most important "sensitive area."

## **II. THE MASTER PLANNING CHALLENGE**

Until recently, New Market was typical of most rural communities in physical form, with single family homes placed on narrow lots lining a single main street. Almost without exception, building followed the original plat lines laid out in 1793. Interspersed, but concentrated in the center of town, were a few small-scale commercial uses serving the local needs of townspeople, such as a grocer, post office, and auto garage. Gradual yet hardly noticeable changes occurred when the occasional new residence was built. This image changed somewhat in 1980 when a major subdivision of single family homes was built on the west end of New Market, distinctly changing its physical shape and practically doubling its population (from 110 to 192). Since then, another large parcel on the north boundary of the town was annexed and also laid out for residential use, with the potential for adding another 338 people, again almost doubling the population. Still another annexation in 2004, the Orchard at New Market, will bring 104 single-family homes, over 300 new residents, and 43,000 sq ft of retail and office space. Harbingers of the future, these three annexed areas are symbolic of factors which must be taken in to consideration in future planning in ways which were not conceived of during the writing of the previous Master Plans. The town is faced with many challenges, the greatest being to achieve and maintain over a long period of time desirable land use balances which retain and enhance New Market's quality of life, its separate identity, its sense of community, and its fiscal viability.

Given the unique nature of New Market, this challenge presents some difficulties. Finding a balance between two seemingly contradictory themes, preservation vs. expansion, is not a simple problem. Preservation issues are characterized by the rural setting, the predominantly residential character of developed land, the Historic District and other historical places throughout the community, consciously evolved parks and open space, and the physical form of the existing neighborhood. Expansion issues are characterized by growth pressure from outside the town boundaries, increasingly complex municipal financing questions, a more complicated infrastructure as existing public facilities are outgrown and support mechanisms become inadequate, and the search for equitable solutions to increased demands for more choice and flexibility in the use of land.

The purpose of a Master Plan is twofold. First, a Plan is an indication of community values as provided by residents and local leaders. These values are stated in terms of visions and strategies that describe a desired future condition for the community. The second purpose involves the role the Master Plan plays in the decision-making process. The statement of visions and strategies serves as a guide for local planning and elected officials when reviewing development proposals, zoning issues, annexations, and public works projects.

The background information and data compiled for this Plan provides several viewpoints that should enable the town to deal more effectively with growth and development. First, past trends dealing primarily with development rates and population characteristics are addressed. Second, existing conditions, including environmental factors, the level of community facilities available, and zoning, are addressed. The last viewpoint looks to the future, which is embodied in the land use plan. It is hoped that by learning from the past and looking at the present conditions. The community can better shape its future.

It is important to point out that a Master Plan is a guide for the development of a community and does not cast in stone what should or shouldn't be done. Throughout this document reference is made to visions, policies, and action statements. By designating various portions of the plan as such, both its intent and flexibility are reinforced. Because conditions change in a community, the Master Plan must be flexible enough to address any significant changes and cannot be a static, rigid document.

New Market, as required by State laws, has prepared or is subject to a variety of specific plans and ordinances. Among them are the Land Development Ordinance, Sediment Control Ordinance, Stormwater Management Ordinance, Forest Conservation Program, and Floodplain Ordinance. While providing more detailed information and policy, all plans and laws shall be in compliance with and conform to the town's Master Plan. Should policy or programs not conforming with the Plan be desired, when such changes would benefit the public as determined by the New Market Mayor and Council, the Plan may be amended according to the procedures set forth in Article 66B of the Annotated Code of Maryland.

New Market affirms its intention to operate as a "citizen" of Maryland by following the State's growth management program designed to encourage economic growth, limit sprawl development, and protect its natural resources. The Maryland Economic Growth, Resource Protection, and Planning Act took effect in 1992 and reshaped how citizens, developers, the State, counties, and towns think about planning, growth, and resource protection.

Most local jurisdictions in the State establish priority areas for growth and corresponding areas for resource protection. The Act encouraged building on that base with consistent development regulations and targeted infrastructure investment by the State. A basic premise of the Act is that the comprehensive plans prepared by counties and towns are the best place for local governments to establish priorities for growth and resource conservation, and that once those priorities are established, it is the State's responsibility to back them up.

The Planning Act required that county and municipal plans be implemented by laws, ordinances, and regulations that are consistent with the Plan and the visions contained in the Act. It also required that funding decisions for public sector projects – both local and State – be consistent with the Plan and the visions. The fundamental concept of "consistency" under the Act is that land use regulations and land use decisions should agree with and implement what the Plan recommends and advocates. A consistent regulation or decision will show clear support for the Plan or be neutral – but it should never undermine the Plan.

#### **A. Legal Basis for Planning in Maryland**

Article 66B of the Annotated Code of Maryland requires municipalities that maintain zoning authority over the jurisdiction to develop a Comprehensive Plan. This article also requires municipalities to address specific issues within their growth plans. 2006 House Bill 1141 requires municipalities to address the impact projected growth will have on infrastructure, water resources, schools, libraries and public safety. New Market's Plan meets the requirements of Article 66B and House Bill 1141.

## B. The 12 Visions of Smart Growth

During the 2009 Legislative session, the eight planning visions of Maryland's 1992 Planning Act were replaced with twelve new visions to address a broader spectrum of issues. These new planning visions are the State's land use policy, and a local jurisdiction is required to include them in their comprehensive plan and implement them through zoning ordinances and other regulations.

1. **Quality of Life and Sustainability:** A high quality of life is achieved through universal stewardship of the land, water and air resulting in sustainable communities and protection of the environment.
2. **Public Participation:** Citizens are active partners in the planning and implementation of community initiatives and are sensitive to their responsibilities in achieving community goals.
3. **Growth Areas:** Growth is concentrated in existing population and business centers, growth areas adjacent to these centers, or strategically selected new centers.
4. **Community Design:** Compact, mixed-use, walk-able design consistent with existing community character and located near available or planned transit options is encouraged to ensure efficient use of land and transportation resources and preservation and enhancement of natural systems, open spaces, recreational areas, and historical, cultural, and archeological resources.
5. **Infrastructure:** Growth areas have the water resources and infrastructure to accommodate population and business expansion in an orderly, efficient, and environmentally sustainable manner.
6. **Transportation:** A well-maintained, multimodal transportation system facilitates the safe, convenient, affordable and efficient movement of people, goods and services within and between population and business centers.
7. **Housing:** A range of housing densities, types, and sizes provide residential options for citizens of all ages and incomes.
8. **Economic Development:** Economic development and natural resource-based businesses that promote employment opportunities for all income levels within the capacity of the State's natural resources, public services, and public facilities is encouraged.
9. **Environmental Protection:** Land and water resources, including the Chesapeake Bay and its coastal bays, are carefully managed to restore and maintain healthy air and water, natural systems and living resources.
10. **Resource Conservation:** Waterways, forests, agricultural areas, open space, natural systems and scenic areas are conserved.
11. **Stewardship:** Government, business entities, and residents are responsible for the creation of sustainable communities by collaborating to balance efficient growth with resource protection.

12. **Implementation:** Strategies, policies, programs and funding for growth and development, resource conservation, infrastructure, and transportation are integrated across the local, regional, State and interstate levels to achieve these visions.

These visions give local jurisdictions a succinct statement of Maryland's priorities for their plans. However, the visions are intended as the beginning of the planning process, not the end. New Market starts with the visions, applies them to its own situation, and establishes its own priorities and paths to realization.

### C. 1997 Priority Funding Areas Act

The 1997 Priority Funding Areas Act recognizes and capitalizes on the influence of State expenditures on economic growth and development. This legislation directs State spending to Priority Funding Areas (PFA). PFAs are existing communities and places where local governments want State investment to support future growth.

Growth-related projects covered by the legislation include highways, sewer and water construction, economic development assistance, and State leases or construction of new office facilities.

The PFA legislation builds on the foundation created by the Visions that were adopted as State policy in the 1992 Economic Growth, Resource Protection and Planning Act and are articulated above as fundamental goals for the Town of New Market. Beginning in 1998, the State of Maryland directed funding for projects that support growth to PFAs. Funding for projects within municipalities, certain existing communities, industrial areas, and designated growth areas receive priority for State funding. PFAs are priorities for State and local government spending to encourage and support economic development.

### D. The Smart Growth Initiative

In addition to the Priority Funding Areas Act, the 1997 General Assembly passed four other pieces of legislation and budget initiatives: Brownfields, Live Near Your Work, Job Creation Tax Credits, and Rural Legacy. These four initiatives are known collectively as "Smart Growth".

Smart Growth targets programs and funding to established communities and locally designated growth areas and to protect rural areas. The Priority Funding Areas Act provides a geographic focus for the State's investment in growth-related infrastructure. The Act focuses State resources to conserve lands outside of PFAs, to encourage growth within PFAs, and to ensure that existing communities continue to provide a high quality of life for their residents.

Maryland has adopted the following principles of Smart Growth, which provide guidance for new development, infill development, and redevelopment:

- Encourage mixed land uses;
- Incorporate compact building design;
- Create housing opportunities and choices;



- Create walkable communities;
- Foster distinctive, attractive communities with a strong sense of place;
- Preserve open space, farmland, natural beauty, and critical environmental areas;
- Provide a variety of transportation options;
- Strengthen and direct development to existing communities;
- Make development decisions predictable, fair and cost effective; and
- Encourage community and stakeholder collaboration in development decisions.

The 1997 Smart Growth Initiative is a significant part of Maryland's efforts to the encouragement and funding of sprawl development.

#### **E. Management Plan of the Heart of the Civil War Heritage Area**

The Management Plan of the Heart of the Civil War Heritage Area (HCWHA) was adopted and made a part of the comprehensive plans of Carroll, Frederick and Washington Counties in 2006 and included the Town of New Market within the boundaries of the certified HCWHA. The Town supports the efforts of the certification of the HCWHA Plan. This update of the Master Plan, when adopted by the Mayor and Town Council, incorporates by reference all portions of the Heart of the Civil War Heritage Area Management Plan, except those portions solely relating to other jurisdictions within the Heart of the Civil War Heritage Area, as part of the Master Plan.

#### **F. House Bill 1141**

House Bill 1141 was enacted during the 2006 Maryland Legislative Session. This law has a direct effect on procedures for annexations and requires new planning elements within New Market's Master Plan.

##### **1. Annexation Procedures**

Two significant changes resulting from HB 1141 are a change to the "five-year rule" regarding zoning and a change regarding "Annexation Plans".

##### **2. The Five Year Rule**

Two changes to the five-year rule were incorporated in HB1141. First, the rule would be applied solely based upon zoning. In the past, the five-year rule could be applied when a proposed new zoning classification was substantially different from the use envisioned "in the current and duly adopted Master Plan." The reference to the Master Plan is now gone. The zoning classification is now required to be reviewed based on the degree of change from current County zoning to the proposed municipal zoning. When the zoning change is proposed to be from one residential zone to another, "substantially different" is now defined by the amount of density change. The five-year rule does not apply in the case of a density change unless the proposed zoning is 50%

denser. For example, if the current zoning permits 1 unit per acre, the new zoning can be subject to the five year rule if it permits anything more than 1.5 units per acre. As before, a municipality may obtain a waiver from the County to avoid the five-year wait. This change took effect on October 1, 2006.

### **3. Annexation Plans**

An Annexation Plan is required that replaces the “outline” for the extension of services and public facilities prior to the public hearing for an annexation proposal. This section contains no additional language for the content of the Annexation Plan to be adopted, but does require it to be consistent with the municipal growth element for any annexations after October 1, 2009. The Plan must be provided to the County and State (Maryland Department of Planning) at least 30 days prior to the hearing. This requirement took effect on October 1, 2006. The requirement for consistency with the Municipal Growth Element of the Comprehensive Plan took effect on October 1, 2009 with provisions for two six-month extensions.

### **4. New Planning Elements**

The new legislation mentioned above requires two new elements, or chapters, to be included in local Comprehensive Plans. The first element, Water Resources, must be included in County and municipal Plans. The second element, Municipal Growth, is required in municipal Comprehensive Plans only. Both elements were required to be incorporated into the Town's Comprehensive Plan no later than October 1, 2009 with a provision for two six-month extensions. New Market has included both elements in this Master Plan.

### **5. The Water Resources Element**

This element addresses the relationship of planned growth to water resources for both waste disposal and safe drinking water. It is required of all County and municipal governments in the State. The element must identify drinking water and other water resources adequate for the needs of existing and future development proposed in the land use element of the Comprehensive Plan. It must also identify suitable receiving waters for both wastewater and stormwater management to address the development proposed in the Land Use Element of the Comprehensive Plan. Resource issues to be addressed in this element include water protection areas, groundwater resources, water quality standards and Total Maximum Daily Loads. The adopted Water Resource Element is included in this Plan.

### **6. The Municipal Growth Element**

This element requires a municipality to identify areas for growth consistent with a long-range vision for its future. The Growth Element is to be developed based on consideration of a comprehensive list of factors including population projections, land capacity assessment, and infrastructure assessment. Completion of this element will guide future annexation proposals and plans. Consultation with Frederick County is required, and a joint agreement with the County is encouraged. The adopted Municipal Growth Element is included in this Plan.



## G. 2009 Planning Legislation – Smart, Green and Growing Initiative

The *Smart, Green and Growing* initiative led to the adoption of three key planning bills in the 2009 legislative session.

- Smart Growth Measures and Markers – Allows the State to create “Smart Growth” standards to measure local government’s Smart Growth process.
- Planning Visions – Creates several new State planning visions to help guide Comprehensive Planning and growth in Maryland.
- Smart and Sustainable Growth Act of 2009 – A bill addressing the *Terrapin Run* decision implementing a new standard of “consistency” governments must have between their Comprehensive Plans and development decisions. The “Preamble” of the Bill contains important guidance as to the role of the comprehensive plan...

“WHEREAS, Land use planning in the State of Maryland has revolved around comprehensive plans enacted by local governments, following the eight visions established in the Economic Growth, Resource Protection, and Planning Act of 1992; and

“WHEREAS, The decision of the Maryland Court of Appeals in *David Trail, et al. v. Terrapin Run, LLC et al.*, 403 Md. 523 (2008) held that a special exception could be granted even if it did not strictly conform to the comprehensive plan; and

“WHEREAS, While the holding of the *Terrapin Run* decision could be narrow and confined to the granting of special exceptions, the General Assembly is concerned that a broader interpretation of the decision could undermine the importance of making land use decisions that are consistent with the comprehensive plan; and

“WHEREAS, Article 66B, § 4.09 of the Annotated Code of Maryland requires a local jurisdiction to implement the provisions of its local comprehensive plan through “the adoption of applicable zoning ordinances and regulations, planned development ordinances and regulations, subdivision ordinances and regulations, and other land use ordinances and regulations that are consistent with the plan;” and

“WHEREAS, Citizens invest countless hours in determining the future direction of their jurisdiction through local comprehensive plans; and

“WHEREAS, The people of Maryland are best served if land use decisions are consistent with locally adopted comprehensive plans; and

“WHEREAS, It is the intent of the General Assembly, as evidenced in Article 66B, §§ 1.03(e) and 4.09, that comprehensive plans should be followed as closely as possible while not being elevated to the status of an ordinance and that deviations from the plan should be rare; ...”

The new language inserted in Article 66B includes the following: "Except as provided in subsection (d) of this section, when a provision in a statute listed under subsection (b) of this section requires that an action be "consistent with" or have "consistency with" a comprehensive plan, the term shall be defined to mean an action taken that will further, and not be contrary to, the following items in the plan:

- (1) Policies;
- (2) Timing of the implementation of the plan;
- (3) Timing of development;
- (4) Timing of rezoning;
- (5) Development patterns;
- (6) Land uses; and
- (7) Densities or intensities

So our comprehensive plans can continue as guides to the future to be "followed as closely as possible while not being elevated to the status of an ordinance and that deviations from the plan should be rare."

### III. THE VISIONS AND OBJECTIVES

#### A. The Vision

As stated in *Article I, Cultural Heritage and Identity*, New Market was established as a National Pike town to service the needs of both travelers and local farmers. When the railroad came through Monrovia, emphasis on the economy shifted and the town declined until Stoll Kemp opened the first antique shop in 1936. In 1979, the town adopted an “antiques only” zoning ordinance for the Historic District. Over the years, the town slowly became more insular in its business culture and legislative practices. The full effect of this trend became apparent in the 1990's with the revitalization of downtown Frederick and the beginning of “online” trading of commodities including antiques. In April 2004, the Town amended its zoning ordinance to reestablish uses that were permitted before 1979. In April 2009, the Town entirely rewrote its ordinance to further expand economic uses in the Historic District (Residential Merchant District) as well as strengthen the role of the Historic District Commission with respect to maintaining 19<sup>th</sup> century lot coverage patterns while applying 21<sup>st</sup> century zoning regulations.

It is the Town's vision to move forward into history. It is the Town's desire to build a community where one can live, work, play, shop, dine, and go to school. In the old days, town residents lived and worked together in the stores, factories, and farms surrounding the town. They attended one of three local churches, ran fire calls, and belonged to at least one of several civic organizations in town.

In deciding to develop its three new villages – Brinkley Manor, The Orchard, and Royal Oaks - the Town has invited new residents to share our historic values and cultural heritage. This growth has paid for itself in terms of new resident participation on Town boards and committees as well as service to civic organizations and schools. As a result, the Town is home to a nationally recognized Blue Ribbon Elementary School. We are also home to the local youth athletic association, LOUYAA. The Town has demonstrated its commitment to its overall vision by providing the LOUYAA playing fields on the unforested portion of the Town's 100-acre woods open space parcel.

Nevertheless, as the development of the CVS Pharmacy and All Tune and Lube properties on MD 144 at the eastern entry to New Market demonstrate, **the Town is in danger of becoming a small town surrounded by a larger County “town.”** These properties are in the County's Community Growth Area for New Market. However, the County has no current mechanism or policy to ensure that the Town shares in the benefits of these developments. As such, it leads to irreversible land use decisions that inhibit the Town's efforts to expand and diversify its tax base.

The Town identifies four visions that capture the ideals expressed in the narrative above.

**1. Careful management and preservation of New Market's character and historic identity as at the heart of its social and economic vitality.**

The highest priority in New Market is the care and protection of its great resource – the character of the town itself. New Market is a community of diversity; the town is a vital, year-round working community with a mixture of ages, income levels, architectural styles, commercial activities, and physical environments. The threads binding these diverse elements together are a quieter, slower town pace, a sense of intimacy produced by its historic buildings, layout, and small scale, and a mix of homes and shops that is the antithesis of modern commercialism. These qualities are enhanced by certain physical characteristics of the town's layout such as easy walking distances, houses close to the street, sidewalks, vegetation, key focal points of activity, and an identifiable and historic town center.

**2. Prudent guidance of its geographic expansion and population growth has extended the characteristics of unity, variety, order, and balance that typify the community.**

New development in and around New Market should be imbued with the "New Market character" and judged with consistent standards of design quality, environmental soundness, and fiscal impact. New Market is very careful when assessing opportunities for expansion and change and its standards are applied to maintain the rural character, environmental soundness, and overall visual quality of the town; to retain its predominant residential character along with its housing styles, walking scale, and history; and to encourage the pride of its residents and its stability and independence as a community.

**3. Economic development benefits historic preservation. New Market's Historic District is a balanced mix of residences and local-serving and regional businesses with a distinctive market niche and historic character.**

The most important asset of New Market, its Historic District, is readily identifiable in extent, contains a mix of mutually supporting residences, antique businesses, and personal services, and is controlled in architecture, historic quality, and signage. The scale of its buildings is linked to their surroundings and the pedestrian. It is identified as a statewide visitor destination, it is oriented to walkers rather than automobiles and contains a mix of businesses and homes, local and regional operations, and is dominated by locally owned shops and other small businesses. **New Market seeks to expand and diversify its tax base to ensure its long-term viability so that it may protect its historic identity and independence as a community.**

**4. The natural amenities and environmental resources of the New Market region have been protected to be enjoyed by and serve generations to come.**

New Market is a community that takes special pride in the appearance of its urban spaces, the quality and the preservation of its natural environment, the carrying capacity of its natural resources and infrastructure, and the retention of its places of special beauty and interest. Its residents always have the time to give attention to the connections between past and present,

between the natural and the manmade, and between residents and visitors. This will require a delicate balancing act as the Town strives to minimize the impact of future commuter traffic and the need for a better transportation network with the desire to maintain a green buffer area that defines the New Market Community Growth Area with the Linganore Community Growth Area as set out in the Countywide Comprehensive Plan adopted April 2010.

## B. The Objectives

The Town's visions are translated into the following basic objectives that will be expanded upon in later sections.

- To control our destiny as a Town rather than being driven by piecemeal growth over which the Town has no control. This requires that decisions be made by the Town and not for the Town.
- To establish New Market as a leader in environmental stewardship and community design by paying strict attention to local and regional environmental needs and actively promoting neighborhood design that reflects the rural, village-like characteristics of New Market.
- To ensure that growth not only pays for itself, but that it also be a source of ongoing revenue for the current and future infrastructure needs of the Town.

The recommendations and directions contained in this Plan are designed to be flexible and should be periodically reviewed and revised as situations warrant. Implementation of these recommendations should be phased-in over time, based upon community priorities, funding, resources, and market pressures. New Market has taken since 1747 to evolve into the community it is today. Future change will occur at a natural pace and it may be many years before some of the recommendations contained in this Plan are realized. Certain fundamentals, however, will be observed as today's recommendations are modified and adjusted and development proposals are evaluated. The fundamentals against which all proposals for change will be measured are:

**CHANGE MUST FIT** Traditional, historic National Pike towns with integrated, multiple layers of land uses will be used as a guide for new development.

**CHANGE MUST FIX** Responsible changes in land use patterns will result in health, safety, and environmental protection and enhancement, especially when streams and their buffers are restored, forested areas are connected, and other sensitive areas are maintained or restored to their natural state.

**CHANGE MUST PAY** Changes in land use patterns must result in benefits and resolve problems. The market value realized through society's decisions to promote development (for example, through zoning, annexation, and infrastructure building) will be directed toward a community vision of an improved quality of life and to offset initial costs and create substantial continuing revenue for the community.

**CHANGE MUST SHARE** Concern for the public interest, broadly defined to include current and future residents in our Town and region, will be an integral consideration in changes to land use patterns.

These measures will be translated by New Market into a set of tools for directing future change and managing the pace of that change so that both new and existing communities enjoy the quality of life envisioned by the best of our planning efforts. The tools that will make up such a system include:

- A list of essential public facilities and categories of environmental goals – transportation, schools, water quality, air quality, etc
- Standards for each listing
- Test or performance standards – e.g. levels of service, ratios or qualitative measurements
- Oversight mechanisms
- Evaluations of effectiveness
- Feedback to planning and budgetary processes

A one-sentence summary of New Market's visions and objectives is a desire to maintain a sustainable balance among New Market's economic, aesthetic, cultural, and historic elements. This notion is built on a commitment to change at a pace that preserves the Town's special quality of life, preserves its diversity of citizenry and architecture, and preserves open space and the environment, as well as the Town's historic character. The Town chooses to accept orderly, compact, phased, and compatible growth in its Planning and Annexation Areas as an alternative to the suburban sprawl, automobile-dependent development that has consumed hundreds of thousands of acres of valuable land across our country.

It includes a commitment to the economic revitalization of the Historic District and to creation of ongoing opportunities for economic development and job creation.

New Market and its logical Annexation Areas occupy land that has profound implications for the protection and quality of our natural resources. This Plan acknowledges our responsibility to these resources and includes measures to protect and improve them.

It also includes a determination to improve the Town's transportation future. This Plan pictures a community that is congestion-free, connected, and with features that will reduce our dependency on the automobile. It provides broad opportunities for walking and biking.

Finally, it is a firm commitment to protect New Market from the fate that has befallen many other locales in Frederick County – development of vast tracts of uncontrolled, unattractive generic housing that virtually obliterate a small town's character and surrounding open space. The Town is determined that it will not happen here.

## IV. THE GROWTH OF NEW MARKET

### A. Population and Housing: Growth Trends and Patterns

The population of New Market has shown modest increases over a sixty-year period while the region surrounding it and Frederick County as a whole have experienced very large gains as shown in Table 1.

**Table 1. Population Change**

Year	Town of New Market		New Market Region		Frederick County	
	Number	% Change	Number	% Change	Number	% Change
1940	360	22%	2,653	15%	57,312	5%
1950	301	-16%	2,759	4%	62,287	9%
1960	358	19%	3,596	30%	71,930	15%
1970	339	-5%	6,834	90%	84,927	18%
1980	306	-10%	9,857	44%	114,792	35%
1990	328	7%	15,855	49%	150,208	31%
2000	427	30%	29,107	84%	195,277	30%
2005	480	12%	34,160	17%	228,100	17%
2010	656	36%			233,385	2.3%

Source: US 2010 Census, Comments on the Town of New Market Draft Municipal Growth Element, August 11, 2010.

Table 2 shows that New Market is slightly younger than the County and State, has a slightly larger "middle-aged" population, and a significantly smaller elderly population than the County and State. The prime working ages of 30 to 54 are more heavily represented in New Market than in the rest of the State.

**Table 2. Gender and Age Characteristics**

	Town of New Market		Frederick County		State of Maryland	
	Number	Percent	Number	Percent	Number	Percent
<b>Total Population</b>	<b>656</b>	<b>100</b>	<b>233,385</b>	<b>100</b>	<b>5,773,552</b>	<b>100</b>
<b>Under 5 years</b>	52	7.9	14,862	6.4	364,488	6.3
<b>5-9 years</b>	64	9.8	16,303	7.0	366,868	6.4
<b>10-15 years</b>	45	6.9	17,234	7.4	379,029	6.6
<b>15-19 years</b>	48	7.3	16,756	7.2	406,241	7.0
<b>20-24 years</b>	29	4.4	13,237	5.7	393,698	6.8
<b>25-29 years</b>	23	3.5	13,617	5.8	393,548	6.8
<b>30-34 years</b>	48	7.3	13,715	5.9	368,494	6.4
<b>35-39 years</b>	68	10.4	16,065	6.9	377,409	6.5
<b>40-44 years</b>	63	9.6	18,974	8.1	418,163	7.2
<b>45-49 years</b>	56	8.5	20,839	8.9	461,585	8.0
<b>50-54 years</b>	51	7.8	18,496	7.9	440,619	7.6
<b>55-59 years</b>	34	5.2	15,086	6.5	377,989	6.5
<b>60-64 years</b>	26	4.0	12,367	5.3	317,779	5.5
<b>65-69 years</b>	17	2.6	8,373	3.6	226,596	3.9
<b>70-74 years</b>	14	2.1	5,687	2.4	159,761	2.8
<b>75-79 years</b>	5	0.8	4,462	1.9	124,579	2.2
<b>80-84 years</b>	10	1.5	3,635	1.6	98,580	1.7
<b>85+ years</b>	3	0.5	3,757	1.6	98,129	1.7
<b>Median Age</b>	38.0		38.6		38.0	
<b>Male</b>	36.0		37.6		36.4	
<b>Female</b>	39.4		39.4		39.3	

Source: US 2010 Census

Family characteristics include factors such as marital status, household size, and households by relationship and type. These factors help to determine what the future population might be, what types of services the community will require, and the type of housing likely to be in demand. According to Frederick County Planning Department sources, trends in the area concerning marital status are in line with those seen nationally, where separations and divorces have been on the increase while fewer marriages are taking place. More single individuals and smaller families generally indicate the potential for an increased demand for smaller housing units. Sociological trends, such as increases in the number of single parents or families where both parents work, are reflected by changes in the type of housing people look for and in the demand for availability of public services such as day care.



**Table 3. Household Size**

Year	Maryland	Frederick County
1950	3.56	3.6
1960	3.48	3.44
1980	2.82	2.97
1990	2.67	2.78
200	2.61	2.72
2010	2.61	2.84
2030 est.	2.47	2.65

Source: US 2010 Census, Maryland Department of Planning, February 2009

**Table 4. Households by Relationship**

	Households by Relationship					
	New Market		Frederick County		State of Maryland	
	Number	Percent	Number	Percent	Number	Percent
	656	100	233,385	100	5,773,552	100
<b>Total Population</b>						
In Households	656	100	229,203	98.2	5,635,177	97.6
Householders	231	35.2	84,800	36.3	2,156,411	37.3
Spouse	151	23.0	49,048	21.0	1,026,739	17.8
Child	226	34.5	71,169	30.5	1,659,071	28.7
Other Relatives	18	2.7	12,502	5.4	425,161	7.4
Non-relatives	30	4.6	11,684	5.0	367,795	6.4
Unmarried Partner	21	3.2	5,150	2.2	137,828	2.4

**Table 5. Households by Type**

	Households by Type					
	New Market		Frederick County		State of Maryland	
	Number	Percent	Number	Percent	Number	Percent
	231	100	84,800	100	2,156,411	100
<b>Total Population</b>						
Family Households	187	81.0	61,198	72.2	1,447,002	67.1
Non-family Households	44	19.0	23,602	27.8	709,409	32.9
Householder Living Alone	34	14.7	18,625	22.0	563,003	26.1
Total Male	13	5.6	8,043	9.5	234,157	10.9
Male 65+	1	0.4	1,797	2.1	53,018	2.5
Total Female	21	9.1	10,582	12.5	328,846	15.2
Female 65+	8	3.5	4,813	5.7	135,362	6.3
Households with Individuals Under 18	116	50.2	31,898	37.6	738,706	34.3
Households with Individuals 65+	35	15.2	18,572	21.9	516,358	23.9
Average Household Size	2.84		2.70		2.61	
Average Family Size	3.11		3.17		3.15	

**Table 6. Housing Units in Frederick's Incorporated Areas, 2010 and 2000**

Total Population	Households by Relationship											
	Census: April 1, 2010				Census: April 1, 2000				Change: 2010-2000			
	Total Housing Units	Occupied Housing Units	Vacant Housing Units	Vacancy Rate	Total Housing Units	Occupied Housing Units	Vacant Housing Units	Vacancy Rate	Total Housing Units	Occupied Housing Units	Vacant Housing Units	Vacancy Rate
Frederick	90,136	84,800	5,336	5.9%	73,017	70,060	2,957	4.0%	+17,119	+14,740	+2,379	+1.9
Total Municipal Housing Units	39,881	36,991	2,890	7.2%	32,035	30,482	1,553	4.8%	+7,846	+6,509	+1,137	+2.4
Percent of County	44.2%	43.6%	54.2%		43.9%	43.5%	52.5%		45.8%	44.2%	56.2%	
New Market	<b>247</b>	<b>231</b>	16	<b>6.5%</b>	<b>170</b>	<b>159</b>	<b>11</b>	<b>6.5%</b>	<b>+77</b>	<b>+72</b>	<b>+5</b>	<b>0.0%</b>
Brunswick	2,330	2,155	<b>175</b>	7.5%	1,957	1,866	91	4.6%	+373	+289	+84	2.9%
Burkittsville	74	69	5	6.8%	76	72	4	5.3%	-2	-3	+1	1.5%
Emmitsburg	1,070	997	73	6.8%	862	811	51	5.9%	+208	+186	+22	0.9%
Frederick	27,559	25,352	2,207	8.0%	22,106	20,891	1,215	5.5%	+5,453	+4,461	+992	2.5%
Middletown	1,569	1,484	85	5.4%	981	960	21	2.1%	+588	+524	+64	3.5%
Mount Airy	1,214	1,187	27	2.2%	1,046	1,038	8	0.80%	+168	+149	+19	1.5%
Myersville	553	531	22	4.0%	450	439	11	2.4%	+103	+92	+11	1.5%
Rosemont	118	114	4	3.4%	106	104	2	1.9%	+12	10	+2	1.5%
Thurmont	2,498	2,354	144	5.8%	2,193	2,119	74	3.4%	+305	+235	+70	2.4%
Walkersville	2,206	2,094	112	5.1%	1,793	1,750	43	2.4%	+413	+344	+69	2.7%
Woodsboro	443	423	20	4.5%	295	273	22	7.5%	+148	+150	+2	-2.9%
Balance of Frederick County	50,255	47,809	2,446	4.9%	40,982	39,578	1,404	3.4%	+9,273	+8,231	+1,042	1.4%
Percent of County	55.80%	56.40%	45.80%		56.10%	56.50%	47.50%		54.20%	55.80%	43.80%	

**Table 7. Housing Occupancy**

<b>Occupancy</b>	<b>Households by Relationship</b>					
	<b>New Market</b>		<b>Frederick County</b>		<b>State of Maryland</b>	
	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>	<b>Number</b>	<b>Percent</b>
<b>Total Housing Units</b>	247	100.0	90,136	100.0	2,378,814	100.0
<b>Occupied</b>	231	93.5	84,800	94	2,156,411	90.7
<b>Vacant</b>	16	6.5	5,336	5.9	222,403	9.3
<b>For Rent</b>	3	1.2	1,485	1.6	61,874	2.6
<b>Rented, but not occupied</b>	0	0	152	0.2	3,742	0.2
<b>For Sale only</b>	3	1.2	1,204	1.3	32,883	1.4
<b>Sold, not occupied</b>	1	0.4	302	0.3	6,586	0.3
<b>For seasonal, recreation or occasional use</b>	1	0.4	488	0.5	55,786	2.3
<b>All other Vacancies</b>	8	3.2	1,705	1.9	61,532	2.6
<b>Homeowner Vacancy Rate</b>	1.5%		1.8%		2.2%	
<b>Rental Vacancy Rate</b>	1.8%		6.7%		8.1%	
<b>Tenure</b>						
<b>Total Occupied Units</b>	231	100.0	84,800	100.0	2,156,411	100.0
<b>Owner-Occupied Units</b>	197	85.3	64,315	75.8	1,455,775	67.5
<b>Renter-Occupied Units</b>	34	14.7	20,485	24.2	700,636	32.5
<b>Population in Owner-Occupied Units</b>	573	87.3	179,943	77.1	3,940,520	68.3
<b>Population in Renter-Occupied Units</b>	83	12.7	49,260	21.1	1,694,657	29.4
<b>Average Household Size</b>						
<b>Owner-Occupied Units</b>	2.91			2.80	2.71	
<b>Renter-Occupied Units</b>	2.44			2.40	2.42	

## B. Land Use Changes

Until recently, New Market was typical of most rural communities in physical form, with single-family homes placed on narrow lots lining a single main street. Almost without exception, building followed the original plat lines laid out in 1793. Interspersed, but concentrated in the center of town, were a few small-scale commercial uses serving the local needs of townspeople, such as a grocer, post office, and auto garage. Gradual yet hardly noticeable changes occurred when the occasional new residence was built. This image changed somewhat in 1980 when a major subdivision of single-family homes (Sponseller's Addition) was built on the west end of New Market, distinctly changing its physical shape and practically doubling its population (from 110 to 192). Since then, another large parcel on the north boundary of the Town (Royal

Oaks) was annexed in 1989 and also laid out for residential use, with the potential for adding another 120 homes, again almost doubling the population. Brinkley Manor was annexed in 1999 and designed for 109 homes. Still another annexation in 2004, the Orchard at New Market, will bring 104 single-family homes, over 300 new residents, and 43,000 sq ft of retail and office space (now known as New Market Commons). The three annexations total 333 lots. As of June 2011, 148 homes were occupied or under construction.

This growth brings familiar challenges, chief among them how to achieve and maintain over a long period of time desirable land use balances which retain and enhance New Market's quality of life, its separate identity, its sense of community, and its fiscal viability. Given the unique nature of New Market, this challenge presents some difficulties. Finding a balance between preservation and expansion is not a simple problem. Preservation issues are characterized by the rural setting, the predominantly residential character of developed land, the Historic District and other historical places throughout the community, consciously evolved parks and open space, and the physical form of the "linear" historic neighborhood. Expansion issues are characterized by growth pressure from outside the Town boundaries, increasingly complex municipal financing questions, a more complicated infrastructure as existing public facilities are outgrown and support mechanisms become inadequate (particularly transportation), and the search for equitable solutions to increased demands for more choice and flexibility in the use of land.

Active subdivision developments will continue to increase the population of New Market within the current Town limits. In time, as the economy recovers, the surrounding areas will also experience gains that could affect New Market dramatically. The availability of public water and sewer and the possibility of annexations will dictate the rate at which any increases will take place for residential and other uses. The Historic District may have decreased importance in the future, with respect to population impact, as its size decreases in comparison to the size of other use zones and as other forms of employment compete with retail sales. Employment opportunities directly within the Town will not increase significantly. Residential service zones will account for most increases. Because growth is so dependent upon provision of water and sewer facilities and annexation, it is imperative that the Town and County agree on clear policies regarding these issues. Utility plans appropriate to provide business opportunity and build a tax base are vital to serve the growing regional market and population.

The maintenance of its small-town, rural identity is a key element of New Market's community character and as future land use changes are carried out, New Market will insist on the highest quality of development. Design guidelines for achieving high quality development in New Market are contained in Appendix A. The preservation of overall community character will involve a number of land use principles, including:

- **Compact, high quality residential, employment, and institutional development is desirable:** Current County zoning promotes a land consumptive, low-density residential settlement pattern in the vicinity of New Market. The New Market area has exceptional access and regional mobility possibilities. It is a regionally significant location and its conversion to low-density residential development, which is facilitated by current zoning and subdivision rules, represents a lost opportunity for the public interest in thoughtful, long-range development, conservation, and infrastructure planning.
- **Mixed Uses Are Desirable:** The Town wants to maintain a reasonable mix of residential, institutional, and commercial uses within and near its neighborhoods. It does not want to repeat errors of past decades, in which housing was located

far from places to shop and work. The Town shall continually monitor the zoning categories in the Historic District to ease land use and permit administration, to eliminate non-conformities, and to more clearly delimit the range of uses allowed and the desired mix of residences and businesses. This monitoring is necessary to maintain a vibrant and commercially successful Historic District.

The current residential merchant Historic District serving residents and visitors, providing visitor-oriented uses such as antique shops, bed and breakfast inns, and the like, will be preserved and enhanced. Specialty commercial uses will be accommodated to allow for new uses complementary to existing development, subject to all development standards and regulations. Businesses offering goods and services consistent with the historic character of the area, its current uses, and its residential base will be encouraged and associated residential use requirements will apply to encourage coexistence in all commercial zones.

Outside the Historic District and residential areas, land appropriate for commercial, light industrial, and office/research development now exists and annexation studies shall be undertaken to examine bringing these possible employment locations into New Market. Industry must have access to transportation facilities and New Market occupies a key Interstate Highway location. Annexations that result in a regional balance between housing and employment opportunities, reduce potential commute distances, and are consistent with the visions and policies of the New Market Plan will be welcome.

- **Natural Features Should Determine Design:** This means all development should be environmentally sensitive and that the natural character of land to be developed should be maintained. This includes development techniques commonly known as conservation design, and, at the lot level, environmental site design. Streams and wetlands are among the most sensitive features. They must have wide, protective natural buffers, and development must be designed not only to minimize impacts to these features, but also to restore natural functions. Environmentally sensitive development also means creating pedestrian-friendly streets so that people can walk to work, shop, or play.
- The Town does not want garages to be the most prominent feature of houses, nor does it want streets that are overly wide and huge parking lots that are unrelieved seas of asphalt. Our streets will be designed to be shared by all potential users and be pedestrian-friendly so that people can walk to work, shop, or play. Every development must provide significant, usable open space as an integral part of projects and neighborhoods – not afterthoughts. This also means the Town will work to improve existing open space to create green corridors of connected open space.

## C. Growth Issues

### 1. Transportation

A central goal of this Plan is to provide a safe, efficient, and attractive transportation system for the Town and region. Future development will require transportation improvements. Proposed land use changes around New Market should be used as a catalyst for a regional assessment of transportation needs, a regional solution, and regional political support. The State Highway Administration's current plans for the New Market area offer an inadequate and piecemeal solution to what is clearly a regional problem.

New Market must join with all municipalities in the region, local businesses, and residents in the region to advocate a regional solution to our collective transportation needs. Landowners and developers who benefit from growth in our neighborhood must contribute to the funding of the transportation solution. No new development shall be approved unless it can be determined that it will substantially contribute to improvements in safety and traffic flow in the New Market Planning Area. In addition, no new development will be allowed unless it can be determined that adequate public facilities and infrastructure are in place or are planned and funded for construction within a reasonable time period in conjunction with the proposed development.

The need for an alternate route parallel to Main Street was recognized as early as 1969, when the New Market Master Plan included a bypass north of the Town. Currently, existing and planned development obstruct that proposed route. Royal Oak Drive, the collector road at one time proposed as a bypass follows a route which is far less likely to divert traffic from Main Street (known as MD 144 outside the Town limits). Furthermore, no proposal has been made for development required to make the final linkage between existing and proposed portions of Royal Oak Drive and MD 75. In view of the substantial development planned for the Lake Linganore PUD and other areas to the west of New Market, the northern bypass is the issue of greatest importance to the Town.

Traffic congestion must be alleviated by providing alternative routes for traffic between areas of residential growth and the primary roads leading to commercial and business districts and other facilities both within and outside of Frederick County. A collector road parallel to MD 144 should be provided to allow traffic from points west of New Market to reach MD 75. Proximity to New Market is important. It should be located no farther north than a line extending westward from Crickenberger Road to connect with Boyer's Mill Road. The State should also complete the interchange at I-70 and Meadow Road to allow westbound traffic to enter and eastbound traffic to exit.

New Market must assure that its transportation needs are met without degradation of the quality of life or historically significant structures or sites, or change to the historic character of New Market. The elected officials of the town shall take action as necessary to coordinate planning efforts between jurisdictions, citizen's groups and non-governmental agencies, and to promote the interests of the New Market community at all levels of government.

## **2. Jobs/Economic Development**

The Town predicts that the current commuter transportation pattern where the employee lives in the western suburbs and commutes to eastern employment centers will change in the next decade. This will be attributable to a rising cost of transportation that will make the price of the daily commute harder to support. Employment centers must be located in closer proximity to their employee base. The town's proximity to the I-70 interchange, Ft. Detrick and its BRAC alignment as well as Hood College and Mt. St. Mary's University makes it a logical location for such centers.

## **3. Expand and Diversify Tax Base**

The Town recognizes that development pressure will always exist around the I-70 interchange. The refusal of past town leaders to recognize this fact has led to commercial development in its immediate vicinity but without being annexed into the town. Herein lies the threat that New Market may become a small town surrounded by a larger "county" town or development area. This trend threatens to strangle the town's ability to expand and diversify a tax base that would otherwise ensure its long-term viability.

## **4. Improvement of Public Facilities**

The Town recognizes the need to make continuous improvements to all public facilities as it grows i.e. schools, parks, public safety, and libraries.

## **5. Natural Resources**

The Historic District of New Market is the base upon which the town's economy and quality of life reside. It is the most "sensitive area" of New Market and this Plan begins with a description of its growth and character. It is hoped that this emphasis on the Historical District as the historic, economic, and cultural base of the town will impress upon Town officials, County officials, State officials, and representatives of the development community the importance of future development enhancing, rather than diminishing, the District's character and importance.

New Market is no less concerned with the more traditional view of sensitive areas; the one that includes floodplains, wetlands and streams, threatened and endangered species habitat, steep slopes, the Chesapeake Bay Critical Area, and mineral resources. This Plan provides prescriptions for protecting and managing all of these resources. These proposed actions are found throughout the Plan.

### **a. Regional Geology and Soils**

The entire New Market area is underlain by crystalline rocks of the Piedmont physiographic province. The different rock types of the area include: the Urbana Formation, Sam's Creek Metabasalt, Wakefield Marble, the Marburg Schist, the Ijamsville Formation, and the Libertytown Metarhyolite. These rocks have been folded and faulted during mountain building episodes in geological history to form a highly complex geologic subsurface. The bedrock units make up a fractured rock, water table type aquifer.

Article 66B requires that each Comprehensive Plan contain a mineral resources element. The town has no commercial quality mineral resources, which could at some point in the future, be extracted or which should be reserved for future use. The town is of such size and character that reservation of land for mineral extraction is not appropriate in any event.

The major soil types in the New Market region are Manor and Linganore soils. These soils are generally shallow, well to excessively drained, with fair to moderate agricultural capability. While areas of prime agricultural soils are limited in the New Market region, the Soil Conservation Service has identified some farmland within the region which is of statewide importance. This farmland generally consists of Capability Units II and III soils and therefore would qualify for participation in the State's voluntary preservation program.

### **b. Water Supply**

The climate of New Market is temperate and moderately humid. The mean annual temperature falls between 52 and 55 F. The summer weather is generally 120 days in length and temperatures are usually moderate, but extremes as high as 109 F are not unknown. Although winter extremes have been as severe as -21 F, the average winters are usually fairly mild.

In the New Market area, precipitation averages approximately 40 inches per year. Of this, 28 inches are generally evaporated or transpired by vegetation. Approximately six inches are direct surface runoff into streams. This leaves approximately six inches of actual groundwater recharge during an average year. This recharge may be significantly lower during dry or drought years. (Source: R.E. Wright Associates, Hydrogeological Study of the Monrovia, New Market, and Ijamsville Area, Frederick County, MD, October 1989.) Precipitation is distributed evenly throughout the year from three inches in February to four inches in July and August. The average annual snowfall is approximately 25 inches.

Local rock formations exert a major influence on the quantity, quality, and availability of ground water. Both quantity and quality of groundwater is a primary concern of the community. The Sams Creek Metabasalt rock formation, on which the town resides, produces wells with an average yield of 11 gallons per minute. Adjacent to the town's eastern boundary is a band of Wakefield Marble. Further study is required to determine average yield from this rock formation. Groundwater levels fluctuate in response to withdrawal from wells. In the New Market area, the effect of pumping from domestic wells is not widespread; such effects normally are confined to a few tens of feet from each well. In the New Market area, the water table is generally a subdued replica of ground surface topography; as such, groundwater movement often follows surface water drainage patterns. As a result, the groundwater recharged to the area is generally equivalent to the amount of precipitation which infiltrates to the area.

There are two bodies of surface water that are intimately related to the Town of New Market. The Davis Branch of Bush Creek is a very small creek no more than 3 to 4 feet at its widest. This creek presently serves as a carrier and purifier for the effluent discharged by the New Market Sewerage Treatment Plant, located on the eastern edge of town. It drains into Bush Creek, a tributary of the Monocacy River. The creek serves as an exporter of groundwater by removing water from the town's aquifer. Linganore Creek is located 1.5 miles north of New Market. It is statistically important to the town as its stream flow rates through its watershed area reflect the amount of groundwater available in the town's aquifer. The town's aquifer is contiguous with the Linganore Creek Watershed.



The town has recognized for some time the necessity of a safe community water supply and in 2003 signed a Water Service Area Agreement with the County. This Agreement addresses allocation for existing and planned development (Brinkley Manor, Royal Oaks, The Orchard and Mansfield Commercial) within the Town boundary. It does not allocate water or sewer capacity to properties outside the current municipal limits.

More information on water may be found in *Article VII, Water Resources*.

### ***c. Floodplains and Wetlands***

New Market lies in the Piedmont physiographic province. The Piedmont is gently rolling land of moderate relief. The land is well drained by very small creeks and runs. There are no 100-year floodplains located within the town. Annual floodplains (defined by soil type) are located to the east of New Market along Maryland Rt. 75 and to the southwest. Annual floodplains are also located north of town, running north and east of New Market Farms. A small wetlands is located within the town, east of Ninth Alley and south of Main Street. Other wetlands are located to the north, east, and south of town.

### ***d. Agricultural and Forests***

Agricultural, woodland, and undeveloped land uses constitute the greatest proportion of the land area around New Market; 83% of the region as defined by the County is classified in these categories. The vast majority of these lands are farmland or uncultivated fields. Typically, the forest stands are located along streams or other steeply sloped areas which have not proven useful for crop production or pasture. The only significant wooded area within the town limits is northwest of Royal Oaks and consists of approximately 100 acres of forestland.

## **V. NEW MARKET'S LAND NEEDS**

### **A. Future Population Growth within the Town**

MDP completed a draft development capacity analysis for the Town of New Market. This involved collecting, integrating, and interpreting data to make it "fit" MDP's growth simulation model.

Maryland's local governments committed to performing the Development Capacity Analysis as part of their comprehensive plan updates via the Development Capacity Analysis Local Government MOU (signed by the Maryland Municipal League and Maryland Association of Counties in August, 2004) and the Development Capacity Analysis Executive Order (signed by Governor Ehrlich in August, 2004). These agreements were commitments to implement the recommendations made by the Development Capacity Task Force.

MDP's analysis, while not perfect, was endorsed by the Development Capacity Task Force and many local governments. This analysis produces estimates of the number of dwelling units built by build-out based on existing zoning, land use, parcel data, sewer service, and information about unbuildable lands. The capacity results presented here are based on the latest revisions to the zoning and sewer service areas. This analysis does not account for school, road, or sewer capacity. The estimates are focused on the capacity of the current incorporated land area to accommodate future growth.

#### **Background and Trend Data**

Based on the Census Bureau's most recent population estimates, the Town of New Market had a population of 656 in 2010, an increase of 229 since the 2000 Census (427). In 2000, the Town had a total of 159 households. The Town of New Market is expected to grow from 247 households in 2010 to 647 by 2030, an increase of 400.<sup>1</sup>

#### **Capacity Analysis**

The results of the growth model use the default MDP assumptions of the model and the current zoning of the Town. According to MDP's capacity analysis, there was a total capacity of 365 households within the Town limits based on 2005 household estimates. Subtracting the household growth from 2005 to 2010 (68 new households) from the total capacity of 365 leaves a 2010-based capacity of 297 ( $365 - 68 = 297$ ). There is not sufficient capacity for New Market's projected growth of an additional 400 households by 2030. The MDP map of In-Town development capacity is attached as Map 1.

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<sup>1</sup> US 2010 Census and Draft Town of New Market Development Capacity Analysis, MDP, November 2009 (see Appendix B).

**Table 8. Zoning District Household Capacity<sup>2</sup>**

Zoning District	Zoning District Description	New Household Capacity	Acres
<b>AP</b>	Amusement Park		17.7
<b>I</b>	Institutional		3.4
<b>MC</b>	Mixed Commercial		5.2
<b>MRS</b>	Mixed Residential Service	26	21.7
<b>OS</b>	Open Space*		6.3
<b>R1</b>	Low Density Residential	336	266.9
<b>R2</b>	Medium Density Residential		1.0
<b>RM</b>	Residential Merchant	3	41.2
<b>TOTAL</b>		<b>365</b>	<b>363.4</b>

\* This category does not include the acreage contained in the "100-acre Park." This land has no development capacity.

The following Table 10-30 from the County's Comprehensive Plan entitled - New Market Community Land Use Plan: Town Portion <sup>3</sup> - illustrates the County's calculations for the Town's development capacity. It shows total potential additional dwellings at 308. The Town has chosen to use MDP's estimate since it provided a more recent number. It should be noted that there is variation in the estimates of 57 units (MDP =365 du, County = 308 du).

## **B. County Growth Assumptions**

The most recent indication of County growth planning is contained in the Comprehensive Plan for Frederick County, MD adopted April 2010. The Frederick County Plan section most directly affecting planning in and around New Market is very important and its key features follow in italics:

***Town of New Market Master Plan*** - *The Town's 2005 Master Plan envisions an expansion of retail uses and service activities along Main Street by designating portions of historic Main Street as Mixed Residential Service and Mixed Commercial. Areas south of I-70 are designated Mixed Commercial/Industrial as well as Planned Residential Development on the Town's Plan. North of I-70, the designated uses mirror the existing land uses. The Town's growth/annexation area generally conforms to the County's delineation of the New Market community growth area with the exception that the Town's plan includes the Blentlinger and Casey tracts, which are designated Planned Residential Development in the Town's Plan and are not included in the growth area on the County's Plan.*

<sup>2</sup> US 2010 Census and Draft Town of New Market Development Capacity Analysis, MDP, November 2009 (see Appendix B).

<sup>3</sup> A Comprehensive Plan for Frederick County, Md. Adopted April 2010, pg. 11-71.

## **Community Plan Highlights**

**Growth Boundary Revision** - The Monrovia enclave, located along MD 75 between the railroad tracks and Bush Creek, is included within the New Market Community Growth boundary. On the south side of I-70 the employment area in the eastern section at the end of Baldwin Rd. has been revised to exclude the 26-acre Atanasoff property.

**Residential** - Areas designated Low Density Residential within the Community Growth Area includes several existing county subdivisions in addition to the Brinkley Manor, Royal Oaks and the Orchard at New Market developments within the Town of New Market. There is only one area, located east of the Meadows [sic Meadow at New Market] development, totaling 90 acres, that is undeveloped land designated Low Density Residential.

**Commercial and Employment** - The majority of employment designated land uses within the entire New Market Region are located in the New Market Community Growth Area. This employment area is located south of I-70 and includes a mix of General Industrial, Limited Industrial, General Commercial and Office/Research/Industrial designations. The Office/Research/Industrial land use plan designation in the southeast quadrant of the Community Growth Area can facilitate the application of a mixed-use zoning classification, which would permit residential and additional commercial uses, in addition to light manufacturing and warehouse uses.

## **Agricultural and Rural Communities Plan Highlights**

The boundary of Eastern Priority Preservation Area adjoins the eastern edge of the New Market Community Growth Area.

## **Green Infrastructure Plan Highlights**

The southern boundary of the New Market Community Growth Area is Bush Creek, a major Monocacy River tributary.

## **Development Staging Mechanisms**

**Annexation** - The New Market Community Growth Area does not necessarily represent an annexation limit for the Town of New Market. Although the Town's 2005 Master Plan designates a growth area that represents their proposed annexation area, it is larger than the County's New Market Community Growth Boundary. Any property that is contiguous to the Town's municipal boundary could potentially be annexed regardless of whether the property is within the County's Community Growth Boundary. However, the county is the sole provider of public water and sewer service to the Town, thereby removing one incentive for county properties to pursue municipal annexation.

**Land Use Plan Designation** - All land within the New Market Community Growth Area has a land use plan designation other than Agricultural/Rural, generally indicating that development would be appropriate on these properties within a 20-year timeframe subject to completion of other staging mechanisms.

**Zoning** - In the employment area south of I-70 some properties designated Office/ Research are zoned Agricultural to facilitate the application of the Mixed Use Development (MXD) floating zone. The remaining undeveloped residential area east of MD 75 is zoned Agricultural and would be considered for appropriate residential zoning either through a piecemeal application for a floating zone or Euclidean zoning through a comprehensive zoning process.

**Table 10-29: New Market Community Land Use Plan: County Portion**

Land Use Plan Designation	Acres Designated	Acres Undeveloped	Pipeline Dwellings (1)	Undev. Land Potential Dwellings (2)	Total Potential Dwellings
<b>Residential</b>					
Low Density Residential	366	90	0	237	237
<i>Subtotal</i>	366	90	0	237	237
<b>Other</b>					
Agricultural	0	0	0	0	0
Institutional	26	2	0	0	0
Natural Resources	34	33	0	0	0
<i>Subtotal</i>	60	35	0	0	0
<b>Commercial/Employment</b>					
General Commercial	153	122	0	0	0
General Industrial	166	142	0	0	0
Limited Industrial	193	144	0	0	0
Office Research Industrial	133	133	0	0	0
Village Center	6	0	0	0	0
<i>Subtotal</i>	651	541			
<b>New Market Total</b>	<b>1,077</b>	<b>667</b>	<b>0</b>	<b>237</b>	<b>237</b>

**Table 10-30: New Market Community Land Use Plan: Town Portion**

Land Use Plan Designation	Acres Designated	Acres Undeveloped	Pipeline Dwellings (1)	Undev. Land Potential Dwellings (2)	Total Potential Dwellings
<b>Residential</b>					
Low Density Residential	306	177	257	51	308
<i>Subtotal</i>	306	177	257	51	308
<b>Other</b>					
Institutional	7	0	0	0	0
Public/Open Space	111	111	0	0	0
<i>Subtotal</i>	118	111	0	0	0
<b>Commercial/Employment</b>					
General Commercial	11	8	0	0	0
<i>Subtotal</i>	11	8	0		
<b>New Market Total</b>	<b>434</b>	<b>296</b>	<b>257</b>	<b>51</b>	<b>308</b>

(1) Pipeline dwellings: unbuilt dwellings/units in approved developments.

(2) Potential dwellings: net (75%) of undeveloped acreage (minus undeveloped acreage in pipeline) at 3.5 du/acre (LDR); 7.5 du/acre (MDR); and 15 du/acre (HDR)

### ***Issues and Opportunities***

- *A road connection between Boyers Mill Road and MD 75 – a New Market Bypass – is part of a County CIP project to examine the feasibility for its potential to reduce traffic on Main Street. In addition, a bypass around New Market may be constructed as part of future municipal annexations.*
- *Prepare a Municipal – County Planning Agreement to address concurrence on appropriate annexation areas.*
- *Address the appropriateness of Mixed-Use Development (MXD) Zoning, which would allow for residential uses, for areas designated LI/ORI.*

### **C. Development Beyond Present Town Limits**

The Town's goal is not to arbitrarily increase its size, but recognize that we exist within the context of a greater county planning region. The attached orthographic view of the town (Map 2) illustrates clearly encroaching county development, both commercial and residential. This is a threat to the Town's long-term economic viability. Essentially, the town is about to become a small town surrounded by a larger county town without the ability to derive any financial benefit or long term planning vision. It is the Town's desire to participate and share cooperatively in our mutual planning goals and objectives. Thus, we see the Town's growth as just one piece of a greater puzzle.

Development outside the Town limits of New Market will profoundly affect its quality of life and financial viability. To assure itself a significant voice in decisions that affect its future, New Market will expand its Annexation Area for potential annexation and resource protection purposes. The Town has considered existing roads, natural features, especially those affecting the watershed, and common property ownership to logically define a new planning area. The redefined area is shown on the accompanying Map 3 "New Market Proposed Land Use". Any growth in this area will impact the future of New Market as a viable municipality and must be carefully coordinated with the County in terms of zoning categories, roadway infrastructure, and water and sewer provision and other growth staging mechanisms.

New Market's location in the region and its accessibility advantages provide an opportunity to meet the needs of the larger community and region. All land is valuable, but its real estate market value is realized in large part only through public decisions. The value created through the Town's and the County's proactive planning, zoning, and infrastructure authority can be translated into measurable improvements to the health, safety, and welfare of area residents. The opportunity is to conserve and efficiently use public funds by concentrating development in areas where public infrastructure and services may be most efficiently provided.

The Land Use Map considered by the community has changed from the Municipal Growth Element adopted November 17, 2010. The 2011 Land Use Plan is the result of a collaborative effort with the County Division of Community Development. It overlays the Town's Annexation Area with the County's Community Growth Area. In order to distinguish the difference between the County's Community Growth Area and the Town's growth area, the Town will describe its growth area as an annexation limit (outlined in green).

The Town has eliminated both the Casey Blentlinger and Audubon properties from its plan. The Annexation Area includes the Smith/Cline, Delaplaine, Ganley, CVS Pharmacy, New Market Shopping Center, Food Lion, Demmitt Property and those south of I-70 but east of the Intercoastal property.

The Town's Annexation Area is consistent with the County's 2010 Plan with the exception of the Smith, Cline and Delaplaine properties. The Smith/Cline and Delaplaine properties were included in the County's 2008 New Market Community Growth Area.

Development in a mutually agreed area in the County is no different than one in the town except that the town will get the benefit of an increased tax base that will serve to enhance its expenditures on police protection, parks, and a possible future library - all elements that will enhance its overall economic viability. This should be a stated County goal as outlined on pg. 11-1 of the Community and Corridor Plans in the 2010 County Comprehensive Plan. This specific issue is called out in its policy CP-P-01 on the same page. It states,

*"Include the preparation of a municipal-County Planning Agreement that would address concurrence on annexation areas, water and sewer service and other relevant issues as part of updates of a municipal comprehensive plan as coordinated with the County."*<sup>4</sup>

Thus, the Town's Plan recognizes the differences and similarities in goals and objectives in our respective plans. It should be noted that the County has operated on no less than four Plans in the last three years. While the Town's goals over the last ten years have remained relatively stable, the County's Plan as gone from one adopted in 2008 that the Town tried to follow with respect to development, utilities, schools and transportation to one that politically constrained those elements. For example, Smith/Cline has two water transmission lines running through it including a fire hydrant in the middle of a cow pasture. It has sewer lines abutting the property. A two-lane bifurcated Mussetter Road dead-ends at the property line where it was once planned to extend through. Thus, to the extent that there are inconsistencies between the County and Town plans, it is not attributable to any physical inability to provide services to our planned Annexation Area, but rather a political one. The Town has found that coordinating its plan with an ever-volatile County political environment challenging at best. Now the Town anticipates the new County Board to again make certain revisions to their Plan. The Town's 2011 Plan has been prepared in anticipation of merging our plan into the County's New Market Community Growth Area. The Town will welcome the opportunity to exercise County Policy CP-P-01 using our combined growth management and concurrency tools including but not limited to APFO, annexation agreements, DRRA's, and WSAA's.

## **1. Land Needs**

MDP, Frederick County and Town 2030 population estimates for New Market is provided in Table 4. The numbers reflect added population growth over the 2010 population of 656. The County population estimate is based on Table 10-30 (308 du's x 2.84). For projection purposes, the Town will use the Census population per household factor of 2.84. The Town has added 68 new homes since MDP's November 2009 Development Capacity Analysis. This number has been deducted from the 365 homes projected in that analysis in order to derive an adjusted development capacity of 268 new homes by 2030.

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<sup>4</sup> Ibid, pg. 11-1

**Table 9. 2030 Population Estimates**

Source of Estimates	Town of New Market 2010	New Market Growth Area (Capacity Analysis)	New Market Annexation (by Town)	Total Population	Land Needed in Acres(2)
MDP	656	1,024	NA	1,630	99
Frederick County	656	875	NA	1,571	102
New Market	656	843(1)	+2,627(3)	4,126	484
	(1) In-Town Household capacity (Table 8) - new households x 2.84 (365-68) x 2.84				
	(2) Density yield with sewer @ 3.0 du/acre				
	(3) Includes 925 du (266 acres @ 3.5 du/acre on Smith/Cline				

The Town separated population by in-town capacity and by annexation precisely because the Town only has capacity for 297 new units within its current boundaries by 2030. In the real world, land available for annexation does not come in perfect fit sizes. Further, given the litigious nature of annexations in New Market, the Town does not assume it will grow beyond its current town limits. Thus, it is reasonable to separate population projects accordingly.

While extrapolating historic trends may be one methodology of projecting population, the Town does not subscribe that it is the only measure. Government regulation, such as APFO, plays a major role. This is clearly evident in the Town's ability to absorb the recently annexed and developed properties at Royal Oaks, Brinkley Manor and the Orchard. Other factors are:

- Life Style Choices
- Employment Opportunities (BRAC)
- Available Housing Types
- Transportation Corridors
- Joint Planning

Expanding upon population projections, Smith Cline build out and the capacity of land available for development, one should study the population trends illustrated in Table 1. Clearly the region has grown at rates that are many times that of the town. This is evidence of a housing demand pressure gradient that has surround the town. This is attributable to the fact that until 2004 when the first connection as defined in the New Market WSAA was made, the town had, in real terms, no land ready for development in recent years. Since that time the Town has gained 137 new homes. That number has been constrained by limited capacity until July 2009 with the 3<sup>rd</sup> Amendment to the WSAA was executed releasing the remaining capacity allocated for the Town's three subdivisions. Given current permits issued and contract data from each of the towns three builders, the Town expects to gain 47 homes in 2011.

Examining the 2010 Frederick County Comprehensive Plan Residential Needs and Development Capacity Analysis, June 2010, indicates their plan does not provide sufficient supply of land to meet projected demand by 2030 (pg. 11). Specifically, it falls 4,350 units short of anticipated need. The plan uses Future Growth Areas to make up 3,900 of the shortfall. Future Growth Areas



are defined (pg. 9) in the analysis as land that “would be appropriate for development but in a time frame generally beyond 20 years.” Thus these units, by definition, fall outside the 2030 horizon year.

More significantly for New Market is the fact that of the 10,000 dwelling units in the pipeline 30% are pending APFO. Linganore (New Market Region) accounts for 55% or 1,650 of those units (pg. 10). The Plan provides an additional 2,274 Planned Dwelling Units for the New Market Region. Of those units 973 are located in Linganore. The analysis is silent of the numbers of planned units that would not pass APFO. It should be noted that both NMES and ODES serve Linganore. Both of these schools are projected to be at 119% and 118% capacity respectively. The County's APFO threshold is 100%.

The New Market Region is at an inflection point. The 871 units in the Linganore area constitute a legacy issue that leads to the projected overcrowded conditions at NMES and ODES. Simultaneously, APFO, as identified above, will prevent demand from being met. These properties will be effectively eliminated from the housing supply as government regulation (APFO) places them into a state of what could be considered a building moratorium. This, along with historic trends related to population growth/housing demand pressure gradient explained above and current town growth experience provides evidence that the Town's Annexation Area designated for residential growth will fill the voids in supply of land available to meet projected demand in the New Market Region.

As APFO stops building, it also locks in the over crowded conditions at NMES and ODES. As pointed out above, without the pupil yield generated by Smith Cline, the County will not only fail to receive state funding for a new elementary school for the New Market Region, but it will fail to obtain the impact fees that back the general obligation bonds that go towards school construction as well.

This presents a joint planning opportunity. The County may use its APFO moratoria device to drive growth to Smith Cline. The Town and County uses its respective growth staging mechanisms such as municipal annexation agreements, DRRA's and ultimately the County's willingness to extend water and sewer services subsequent to the Town providing an acceptable annexation plan supported by impact studies as outlined in the MGE and this Supplement. This complies with Smart Growth principles (please read relevant discussions of Smith/Cline in this Plan) and addresses the concerns expressed in the Plan Maryland draft as stated directly from the document -- "PlanMaryland will not immediately resolve issues like adequate public facilities ordinances that discourage growth in suitable areas..." (*PlanMaryland*, April 28, 2011 draft, at page 1-5)

The Town will demonstrate in this Plan that by studying background trends and data and growth impacts, it has reasonably identified needs, financing, and growth staging mechanisms as well as methods of implementation.

## **2. Type and Direction of Growth and Annexation**

"Suburbanization" is a well-known national pattern. It is driven by the spread of homes to easy-to-develop land, the demands of the automobile, and large national merchandisers. Downtowns that have been successful in combating fringe development have accomplished it by occupying specialty niches unfilled by the competition and creating an attractive, pedestrian-oriented

alternative to the parking lot wastelands of auto-oriented convenience shopping. Regions that have been successful in controlling fringe development have developed mechanisms to coordinate public policy planning and decisions among state, counties, and municipalities. Maryland's "Smart Growth" principles support this approach by calling for directing economic development to existing communities, promoting infill development, preventing sprawl outside growth areas, limiting capital improvements in rural or non-growth areas, preserving open space and environmentally sensitive areas, and promoting mixed use development.

The developed land uses of New Market are compact and uniform with sprawl notably absent but land to accommodate future growth of population or jobs is not available within the Town. Along with the high percentage of developed property, this means that annexation is the safety valve for growth and that it will be the means of property control preferred by developers – it offers more flexibility and more cost efficiency. Serious annexation interest has been expressed by developers and landowners north, east, west, and south of New Market.

The selected direction of growth and use of land is shown on Map 3 "New Market Proposed Land Use." The Smith and Cline properties are designated as Planned Residential Development (PRD). It is contemplated that they would have R1 zoning, but encouraged to seek a PDD floating zone. The New Market Shopping Center, Food Lion and CVS Pharmacy and related properties are designated Mixed Commercial and would likely be placed in a Mixed Commercial zoning district. The Delaplaine, Ganley, Demmitt and properties south of I-70, but east of Intercoastal will be designated as Economic Development Flex Areas (EDF). The purpose of these areas are to provide a high degree of flexibility to encourage uses that are compatible with employment based and related accessory uses and are harmonious with the character of the town. The EDF would not include the most obtrusive uses such as truck stops, solid waste, heavy industrial and manufacturing uses, but would allow fabrication and assembly uses associated with high tech industries. The Town may further limit uses if deemed appropriate as part of an annexation agreement. **Creation of a new zoning category for land proposed as EDF will be considered as the implementation of the Plan subsequent to its adoption.**

#### **a. Smith/Cline**

These properties are land use designated and zoned Agriculture in the County. This defies the conventional wisdom of Smart Growth. First, and as stated above in *Article V, C. 1*, it is not placed properly for viable agriculture or conservation. It is surrounded by both the Linganore and New Market communities and their schools. It is bisected by the minor arterial, Boyer's Mill Rd. This violates Smart Growth Vision 3. "Growth Areas" (see *Article II, B.*).

Secondly, Mussetter Road currently ends at the Smith property line. Mussetter Rd. Extended is identified in the 2010 County Comprehensive Plan to pass through this property. However, its Plan and utility service designations are not consistent with achieving this goal. This violates Smart Growth Visions "3. Growth Areas", "4. Community Design" and "6. Transportation" (see *Article II, B.*).

Third, public waterlines currently pass through the Smith property. This property had been in a County Water and Sewer Service Area, but was removed in the New Market Region Plan rewrite. This can be evidenced by the five fire hydrants on the property. Sewer lines also abut the property. As one will see in the Water Resources Element of this Plan, there is sufficient capacity to serve Smith/Cline. The County system was designed and built with Smith/Cline as an eventual

user. The previous Board of County Commissioners reclassified both properties ignoring the infrastructure capacity they represent. This violates Smart Growth Vision "5. Infrastructure" (see *Article II, B*).

Lastly, with respect to land needs and generally accepted planning principles, the Maryland Land Preservation, Parks and Recreation Plan 2009 states on page 5, paragraph 2, "the viability of agriculture and natural resources most often requires the preservation of large, contiguous tracts of land that are relatively free from the intrusive impacts of development." Paragraph 3 goes on, "The Task Force recognized that patches of farms, forests, watershed lands, and other natural resource habitat surrounded by residential subdivisions and dissected by congested roads constitute a poor return on public investment in conservation, but are increasingly common, even in areas designated by local government and the State."

Planning Maryland, Models and Guidelines Vol. 27 pages 2 & 3 state, "The loss of agricultural land and the loading of farm roads with residential vehicle traffic lead to a "tipping point" where agriculture is no longer a viable way of life in many of these areas. Few farmers desire increased numbers of motor vehicles, including school buses, on roads that have been used for decades for the movement of tractors, combines, and local residents. As such, schools and farms do not usually make the best of neighbors. The pattern of residential development outside of communities and planned growth areas often takes the form of low-density house lots on well and septic systems. These house lots are usually an acre or more in size: sometimes up to three to five acres. Low-density residential development represents a consumption of acreage historically in agricultural use in areas not planned for residential development. This leads to increased vehicle loads on rural roads and the need for community services such as fire and rescue and parks outside of areas planned for these services. Soon, additional school capacity is needed to support the low-density development and the cycle repeats itself until large areas are shifted away from viable agriculture or natural resource uses."

The Town believes these conditions currently exist at the Smith/Cline properties. Deer Crossing ES is to be to the north of Smith/Cline. The Town and its schools are to the south of it. Boyer's Mill Road with its cars and school buses bisect Smith/Cline. The traffic studies, no less the great cattle-crossing affair, provide further evidence that the Smith/Cline farms are no longer viable for either conservation or agriculture. We ask the County to reconsider whether it is wise to maintain unsuitable land as agriculture at the expense of a cultural and historic resource such as the Town of New Market. The threat is that the property owners (who may be land rich and cash poor) could be forced to subdivide into a few large lots. This would constitute an irrevocable land use decision that would have a permanent adverse impact on the town as it shuts down the last remaining bypass corridor. Although Frederick County claims that growth patterns in the 2010 Plan have changed thereby making the 2007 traffic studies outdated, the mathematical model remains the same due to the network transportation design described earlier (see *Article IV, C, 1*). Nearly all new growth would have to be placed south of I-70 to alleviate traffic. Losing this transportation corridor to a short-sighted but irrevocable land use decision is an unacceptable risk: we do not know what the future holds; we should be keeping our options open. By not putting Smith/Cline in a medium density residential land use designation and a water and sewer planned service area, the County's 2010 Plan does not recognize the practical realities on the ground.

Smith/Cline is designated PRD. All infrastructure related to its development will be developer funded.

#### **b. Food Lion**

This mixed commercial area comprises the vacant lot east of the Mansfield commercial property and extends up to and includes the Food Lion. This area is largely already developed. It is designated MC. It presents an opportunity to gain Town tax base with very little impact.

#### **c. CVS**

This is another example of the County developing a property within the New Market Community Growth Area. It includes the CVS Pharmacy and undeveloped pad sites. It is designated MC. It will develop with or without annexation into the Town. All infrastructure related to its development will be developer funded.

#### **d. Delaplaine**

This is the eastern leg of the proposed Mussetter Road Extended. It also provides an excellent location for a jobs/technology park as outlined in *Article IV, C. 2.* of the Plan. It is designated EDF. It has been included in County water and sewer Whitman-Recquart study. It has previously been included in the New Market Community Growth Area but was removed during the New Market Region Plan re-write. All infrastructure related to its development will be developer funded.

#### **e. Ganley**

This property is located on the north side of Rt. 144 across from Trout's Seafood Warehouse and directly behind Food Lion. It is an excellent location for more jobs/technology uses. It is designated EDF. It complies with Smart Growth Vision 3 "Growth Areas" (see *Article II, B.*). It is currently in the County's New Market Community Growth Area. All infrastructure related to its development will be developer funded.

#### **f. Demmitt**

This is the largest of the EDF Area designated properties located south of I-70 and east of the Intercoastal property. This is an example of how the Town will be surrounded by a larger County town if the Town does not annex it. This property will develop with or without the Town. All infrastructure related to its development will be developer funded.

This property also contains the relocated portion of Md. 75 as described in the Transportation discussion in *Article VI*.

### **3. Growth and Annexation Summary**

There is a significant opportunity to encourage compact, high quality residential, commercial, and institutional development using only a small portion of New Market's Planning Area. This focusing of development should be accomplished in a manner in which landowners are compensated for reductions in long-term development potential of their land through transfers or agreements with other landowners who benefit from increases in development potential.

Innovative tools such as a transfer of development rights mechanism or other means of concentrating growth may be needed.

Thoughtful conversion of targeted farmlands to developed uses could provide a unique opportunity to repair and restore essential functions of the natural resource base and enhance water quality over the long term. Existing woodlands can be preserved and expanded to connect with nearby woodlands. Stream protective corridors and buffers can be enhanced or restored.

Targeted preservation of agricultural and open space areas provides opportunities to connect and enlarge blocks of productive farmland, which could perpetually define the character and function of the larger area around New Market. This is particularly important for the Blentlinger, Casey, and Audubon properties. They can become important transition areas from the Linganore and Eaglehead communities.

The properties proposed for annexation hold the key to providing a northern bypass road connecting Boyers Mill Road on the west to MD 75 on the east. The need for an alternate route parallel to Main Street was recognized as early as 1969, when the New Market Master Plan included a bypass north of the Town. Currently, existing and planned development obstructs that proposed route. Royal Oak Drive, the collector road at one time proposed as a bypass, now is a dead-end and will not divert traffic from Main Street (known as MD 144 outside the Town limits). In view of the substantial development planned for the Lake Linganore PUD and other areas to the west of New Market, this is the transportation issue of greatest importance to the Town.

The growth area south of I-70 offers very important opportunities for commercial businesses, employment centers, recreation, and residential development. Activity is now beginning to occur in this area (i.e. the large Costco facility) and, with appropriate water, sewer, and zoning; a true regional employment and business center can be created. The Town has created zoning that allows a variety of mixed commercial/ employment/industrial uses in a carefully planned overall environment that would encompass residential uses in certain areas. Constant attention to this area could create higher paying jobs to offset the higher cost of local housing, limit the miles of through travel on local roads, increase the tax base, keep business local, and foster a greater sense of community.

The County has placed commercial, industrial, and agricultural zoning in the Planning Area south of I-70. However, unless the County identifies a planning policy in its New Market Community Plan to encourage municipal annexations, it is highly unlikely that this much needed tax base will ever annex into the town. The Adventure Park annexation process provides evidence for this assertion. It is important to the improvement and sensible development of New Market that the Town works closely with Frederick County officials. Land use and development decisions outside the Town Limits profoundly affect the quality of life within the town. The Town has previously proposed and will proceed in the future to do a New Market/ Frederick County Joint Annexation Study in the hope producing a clear and unequivocal annexation policy for future plans and planning.

The Town and County should encourage a balanced mix of residential and non-residential development within the New Market Planning Area so that the community, as it changes, does not become a predominantly "bedroom" or commuter residential location. It cannot be overemphasized that if local commercial/tourism/industrial development does not occur, more

reliance will be placed upon residential property taxes to pay for needed services affecting both present and future homeowners.

The Town and County should partner with the State and private sector to invest in the necessary and required infrastructure improvements to facilitate economic development within the Town and Planning Area. The Town and County will designate qualified parts of the New Market Planning Area as "Priority Funding Areas" in compliance with the "Smart Growth" Act of 1997.

The Town and County should coordinate with the State to have New Market designated as a "Revitalization Area" in order to take advantage of the various business development grants, loans, and tax credits offered through this program. This State program is designed to target economic development funding to designated growth areas in accordance with the directives of the Maryland Economic Development, Resource Protection and Planning Act of 1992.

A comprehensive and detailed plan for economic development of the proposed mixed commercial/industrial annexations should be developed with significant input from the community, the County, and the State. This plan should identify specific physical design improvements as well as funding and marketing strategies intended to stimulate business development on the sites. An additional focus of the development plan should be to preserve and capitalize on the historic downtown of New Market. Focus should also be accorded to developing strategies, which link the downtown to other development locations within the Planning Area. Objectives for downtown economic development include:

- Protect the downtown functions against further diminishment as the Town grows larger.
- Improve visibility and traffic to the Town center.
- Improve visitation/patronage by out-of-town customers by returning the Town to a statewide destination.
- Aid the viability of existing businesses.
- Attract new businesses to create a more viable critical mass.
- Accommodate the long-term needs of Town center anchors employers.
- Preserve and enhance the unique physical character of the Town.
- Encourage infill development.

Tourism is predicted to become a leading economic generator in this country and the New Market has a unique opportunity to capitalize on its historic character. Studies have shown that historic tourism visitors stay longer, spend more money, and return more often. Historic buildings seldom become truly obsolete. Their reuse will require innovative thinking, careful work, and creative financing. The results are always worth the time and effort in the long run.

As a first priority for economic development, every effort should be made to preserve and bolster existing businesses and industries within the Planning Area. These businesses should be the foundation for future economic development in the New Market area.

## **4. Annexation Analysis**

### **a. Justification**

- (1.) Reduce traffic along Main St.
- (2.) Expand and Diversify Tax Base
- (3.) Create Jobs and Economy
- (4.) Avoid County Development Strangulation
- (5.) Avoid irrevocable Land Use Decisions

As New Market Self Storage, Trout's Seafood Distribution Center, CVS Pharmacy, All Tune Lube, Food Lion, High's, Mc Donald's and the New Market Shopping Center demonstrate, the County is perfectly willing to develop property within the Town's Community Growth Boundary without providing for annexation. Thus, opportunity for the Town to achieve its long term planning goals and objectives are rapidly diminishing.

Smith, Cline and Delaplaine comprise the last west-east transportation corridor north of Md. Rt. 144. Should the Smith and Cline farms develop under a scenario that does not require that they contribute to construction of a bypass would constitute an irrevocable land use decision regarding New Market's future. It should be noted that Smith and Cline may subdivide their properties under current County zoning. The subdivision would be a very limited number of lots, but a bypass would not be required. Thus, the Town would be left with no transportation alternatives and facing an unacceptable traffic condition of 3,050 vehicles per hour on Main Street during rush hours.

## **5. Staging Mechanisms and Other Growth Tools**

The annexation and development process provides as many as four and perhaps five opportunities for public input and participation. They are the annexation hearing, County zoning consistency hearing, WSAA amendment meeting at the County, DRRA hearing, and establishment of floating zone hearing.

### **a. Impact Studies**

As a matter of standard practice when the Town receives an annexation petition, it will request, at the petitioners cost, impact studies. These may include, but are not limited to fiscal impacts, school impacts, road impacts, and environmental impacts. Given that the County controls the Town's water and sewer facilities, the Town must develop an Annexation Plan pursuant to HB1141 that satisfies the County Board of Commissioners that all impacts of development have been reasonably addressed and mitigated through agreements that provide for funding for schools, roads, and other community needs as identified in the studies. Thus, the Annexation Plan will consider the Staging Mechanisms outlined in the County Comprehensive Plan. The annexation agreement does not provide a phasing schedule for construction.

### **b. Developers Rights and Responsibilities Agreements (DRRA)**

Once a property has been annexed and the appeal period has expired, the Town may enter a DRRA that provides a construction-phasing schedule tied to an amendment to the WSAA that

provides the capacity and take down schedule for water and sewer taps. The Town generally grants 20 years for DRRA's that preserve the property owners zoning and phasing. Clearly the property owner must pay for all utility improvement not only on site, but for any offsite improvements required to provide the needed capacity as deemed by the County. A DRRA requires a public hearing. This is another opportunity for public input.

#### ***c. Water Service Area Agreement (WSAA)***

Before any develop phasing can be established in a DRRA, the Town and County must amend the WSAA to provide capacity to serve the proposed development. This is the mechanism that provides a check and balance system for annexation, growth staging, and financing.

#### ***d. Capital Improvement Program (CIP)***

When CIP funding is needed to provide adequate public facilities to accommodate growth, the phasing of the growth should be timed appropriately with the County CIP.

#### ***e. Zoning***

It is anticipated that the County will down zone properties within the Town's Annexation Area. This will provide incentive for annexation into the Town. If the zoning in the County is not consistent with the proposed zoning in the Town, the Town may be required to wait 5 years to rezone the property unless the County grants a zoning waiver.

#### ***f. Floating Zones***

The Town generally likes the community design flexibility afforded by floating zones whether residential or commercial as opposed to straight Euclidean zoning. Floating zones can only be requested after annexation becomes final. Establishment of a floating zone requires a recommendation of consistency by the Town's Planning Commission and a public hearing by the Town Council.

#### ***g. Historic Character***

The Town's Land Development Ordinance requires all annexed properties to be subject to architectural review by the Town's Architectural Review Commission. This ensures the Town's Historic Character will be preserved regardless of type of development. This is in sharp contrast to County development policy within the Community Growth Boundary as illustrated by a self storage facility, CVS Pharmacy, All Tune and Lube, and a Costco Warehouse that were developed without any Town input.



## **VI. GROWTH'S IMPACT ON PUBLIC SERVICES AND FACILITIES**

### **A. Transportation**

#### **1. Auto-based Transportation**

Article 66B states, "A transportation plan element which shall show proposals for the most appropriate and desirable patterns for the general location, character, and extent of the channels, routes and terminals for transportation facilities, and for the circulation of persons and goods at specified times as far into the future as is reasonable." We only need to look 10 years into the future to know that a bypass will be needed.

##### **a. Mussetter Road Extended**

It should come as no surprise that a major Plan concern is traffic and its affect on our sustainability and quality of life. New Market has been advising the State and County since August 2002 about traffic concerns. The May 2000 Ijamsville Road Corridor Study formed the basic evidence of a potential problem by predicting that daily traffic volume would nearly double by 2020. Subsequent traffic studies pursuant to the County's New Market Region Plan rewrite have supported this Study and the Town's position on the need for a bypass.

Appendix C is a summary of the County's New Market Regional Transportation Study. The County used this study to show "peak hour vehicle" traffic along Main Street and other regional roads under various development conditions. These studies indicate that a bypass with 13,889 units yields 2,650 VPH on Main Street at peak hour. A February 2008 "D" analysis showed that a condition with less than one-half the units (6,100) and no bypass actually produced more traffic at peak hour (3,020). This is a volume to capacity ratio (V/C) of 1.14. The August 2006 analysis through February 2008 "D" analysis shows that large decreases in units leads to very small decreases in Main Street traffic. This seeming contradiction is attributable to the fact that traffic is a function of two variables -- dwelling units and total network capacity. The New Market transportation system can be described as hierarchical. All roads funnel to Main Street which serves as the collector road for the region. Thus a higher weight or coefficient is attached to the road variable in the equation. Without a bypass, there is simply no other alternative for traffic. The New Market transportation system should be based on a grid network. New Market's Historic District is an example of a grid network. A grid network provides alternatives for travel that facilitates traffic flow and reduces volume on any one link.

Both MDP and MDOT have commented previously that the completion of the Meadow Road Interchange and Eaglehead Dr. will "relieve traffic pressure on Main St." However, these mitigation and improvements are already included in the studies. Thus, even with the Meadow Road Interchange and the completion of Eaglehead Drive, the town faces 3,050 VPH at peak hour or a v/c ratio of 1.14.

It has been further suggested that the traffic studies did not reflect the latest land use policies adopted in the County Comprehensive Plan of April 2010. However, Table 10 provides just that information. The Town commissioned Wilson T. Ballard Co. to analyze those revisions. The County

Planning Office provided the breakdown of the units as well as providing clarification. The County land use changes take only 31 peak hour trips off Main Street.

Both MDOT and MDP have previously questioned the methodology of the studies based on County comment to them. No specifics are provided. Verification of methodology and scoping can be found in a letter from Shawn Burnett of the Wilson T. Ballard Company (Appendix D). It is incredulous to suggest that the County would spend tens of thousands of dollars as well as many hours of public workshop time on studies predicated on faulty methodology. It is surprising that the County had so much say in MDOT's and MDP's comments dated August 11, 2010 without any clarification from the Town, hence, the Town's comment regarding the volatile political nature of the planning process.

Safety is MDOT's number one priority; it is also the Town's. Main St. will not be safe for motorists, pedestrians, or bicyclists with 3,050 VPH at peak hour. MDP's comments state Main Street volume is currently well below capacity in terms of Average Daily Traffic. This does not take into account peak hour volumes. As the studies suggest and Article 66B states, the Town is looking as far into the future as is reasonable.

The Smith, Cline, 100 Acre Woods, and , Delaplaine properties hold the key to the Mussetter Rd. extended alignment. It would extend from its current western terminus described above through the Smith Cline, Town, and Delaplaine properties at its eastern terminus at Md. 874. This is illustrated in Map 4. Curiously, this alignment is identified in the 2010 Countywide Comprehensive Plan (pg.06-11) but only partially. It proposes only to extend a connection from the Greenvview PUD through the Smith property to Boyer's Mill Rd. Given that the Smith property is designated and zoned Agriculture in the County Plan as well as having a No Planned Service (NPS) utility designation, it is doubtful this connection can be accomplished without granting development rights to the property in exchange for road right-of-way and developer funding. **The County does not build roads.** Developers build County roads. This appears to be a major contradiction with respect to the County Plan and practical realities.

#### **b. Royal Oaks Dr. Extended**

MDP also suggests that connecting Royal Oaks Dr. to Md. 874 to Md. 75 as proposed in the 2010 County Comprehensive Plan. First, the Town has negotiated such a connection with the developer as part of the LUYAA fields (see Map 4). As this entailed a revision to an already approved plan, the endeavor took some effort. Now that the LUYAA field plan is approved and easements recorded, it is unlikely that the developer would again redo his plan. Further, it is doubtful if not wishful thinking that a significant amount of traffic would be diverted from Main St. by such a connection. The number of units comprising that area is very small relative to the overall area. Secondly, the Town plans to make another such connection to Md. 75 from Royal Oaks Dr. via Mussetter Rd. Extended. This will create multiple alternatives for accessing the fields as well as Md. 75. It also creates the grid transportation network. The required right-of-way has been granted and the engineering completed. The connection simply awaits funding and completion of Phase 4 of the Royal Oaks subdivision. Funding to complete the connection would likely come from Community Enhancement money received as part of an annexation (see *Article VII, B*). See Map 4 for the proposed extension of Royal Oak Drive.

### **c. Rt. 75 Extended**

The 2010 Countywide Comprehensive Plan (pg. 6-11) identifies the relocation of Rt. 75 Extended, a Minor Arterial Road. It would extend south of Baldwin Road through the Park and Ride facility and the Demmitt property. There would be a new bridge over Bush Creek and the CSX railroad tracks. The relocated road would tie back into the existing Md. 75 alignment north of the Brethren Church. According to the Frederick County Office of Planning, "the benefit is pretty obvious and significant, a relocation would bypass "downtown" Monrovia, the CSX railroad bridge, and a rather circuitous alignment along Baldwin Rd." This is another justification for adding the Demmitt property to the Town's Annexation Area.

### **d. Existing Roads**

Within New Market, Main Street (MD 144) is a Minor Arterial Street and Old New Market Road (MD 874) and Royal Oak Drive are Collector Streets. Other existing streets are primarily Local Access Streets or Alleys. A collector road is planned to move traffic from the planned Royal Oaks development located north of the historic district east across MD 874 through the Marley Gate Development and Mansfield property to MD 75.

Because of its location on a collector road regional transportation network, much of the traffic using New Market's two main roads does not come from a single origin nor travel to a destination within the town. Unless transportation routes are drastically modified to redirect most commuter traffic around the town rather than through its center, the town will continue to bear the burden of commuter traffic through its territorial limits. In "Street Design Guidelines for Healthy Neighborhoods" Dan Burden, the author, provides the following objectives and design characteristics in the illustration below for a traditional mixed use downtown. It is clear that New Market cannot achieve its vision as set out in Article III of this Plan if Main St. continues to be a minor arterial.



**Figure 1. Main Street without Median**

**Table 10. Predicted Peak Hour Vehicle (PHV) Traffic Along MD 144 (Main Street) - MD 75 to Boyers Mill Road**

Report/Condition	Back-ground Growth	Approved Development	Eaglehead Site	Casey-Blentlinger Site	Undeveloped Properties	Comp Plan Reduction	Total PHV	V/C
<b>August 2006</b>								
Existing 2005							896	0.35
2015	139	914	39	19	0	-31	1,980	0.71
2020	108	0	20	10	208	-31	2,320	0.83
2025	88	0	0	0	208	-31	2,620	0.94
<b>August 2007</b>								
Current							896	0.35
10-Year	308	278	131	0	29	-31	1,620	0.58
15-Year	125	119	105	0	353	-31	2,320	0.83
20-Year	88	0	23	0	353	-31	2,460	0.88
<b>December 2007</b>								
Analysis A-10 Year	308	381	128	0	110	-31	1,800	0.64
Analysis B-10-Year	308	368	123	0	106	-31	1,780	0.64
Analysis A- 2020	125	95	85	0	550	-31	2,650	0.95
Analysis B- 2020	125	92	82	0	532	-31	2,610	0.93
Analysis A- 2025	103	0	0	0	440	-31	3,200	1.14
Analysis B- 2025	103	0	0	0	426	-31	3,140	1.12
<b>February 2008</b>								
Analysis C-10 Year	308	381	110	0	100	-31	1,770	0.63
Analysis D-10-Year	308	381	104	0	96	-31	1,760	0.63
Analysis C- 2020	125	95	73	0	500	-31	2,560	0.91
Analysis D- 2020	125	95	69	0	482	-31	2,530	0.90
Analysis C- 2025	103	0	0	0	400	-31	3,070	1.10
Analysis D- 2025	103	0	0	0	385	-31	3,020	1.08

Data from Traffic Study(ies) for the New Market Region conducted by the Frederick County Division of Planning.

## 2. Non-auto-based Movement

New Market should be established as a model pedestrian/bicycle friendly Town by providing sidewalks and paths for the safety and convenience of motorists, pedestrians, residents, and visitors. To this end, the Town shall include provisions for bicyclists and pedestrians in upgrades and newly constructed roads require that sidewalks and paths be included in any new development, and conduct studies to identify scenic lands and roadways that need improved pedestrian and bicycle access. The sidewalks and alleys that now frame the Town should be used as the backbone of an expanded network that connects new development, parks, and the Historic District with every part of New Market. The Town is currently working with members of

the Audubon Society to develop walking and biking trails in the Town's 100-acre woods that will connect both properties.

### 3. Financing

*Article III, Visions and Objectives* of this Plan, states that, "Change must pay." For example, as part of the contemplated Food Lion annexation, the Town requested the petitioner conduct a traffic study. Since the petitioner would be crossing an annexation threshold, the Town has the flexibility to set an appropriate standard on a case-by-case basis. The Town required that the study be congruent with the County's APFO for roads. The Town Engineer, Wilson T. Ballard Co. reviewed the study and made the appropriate adjustments to the pro-rata share of road improvement contributions to be made to County escrow accounts designated for those improvements (see Appendices E and F).

Likewise, a proposed bypass would require similar study and analysis. The initial capital outlay for the Mussetter Rd. Extended would be borne and secured by the developer. Since this road should be an extension of Mussetter Road, it is expected that it would appropriately be incorporated into the County road system and built to County road standards. The annual maintenance costs would come from the real property taxes of both Town and County residents as well as SHUR funds.

## B. Public Schools

### 1. Projections

The tables below provide the most up to date projection for the Oakdale and Linganore feeder patterns. They are based on the projects in the FCPS 2010 EFMP. The Annexation Areas west of Boyer's Mill Rd. are in the Oakdale feeder pattern (See Map 5). Thus, Smith/Cline pupils would attend Deercrossing Elementary School (DCES), Oakdale Middle School (OMS), and Oakdale High School (OHS). The remaining Annexation Areas are in the Linganore Feeder Pattern (see Map 6). It should be noted that while the County anticipates residential development on Ganley and Demmitt (MXD floating zone), the EDF Areas do not contemplate residential development.

**Table 11. Oakdale Feeder Pattern**

School	SRC	2009 Enrollment	2009 Enrollment	Projected 2019 Enrollment	Projected 2019 % SRC	Yield Factor	Smith-Cline Units	Smith-Cline Pupils	Additional Capacity Construction	2019 Enrollment Adjusted for Smith-Cline	2019 % SRC Adjusted for Smith-Cline
Deer-crossing ES	641	772	120%	755	118%	0.34	925	314.50	0	1,069.50	167%
Oakdale MS	600	600	100%	690	115%	0.15	925	138.75	300	828.75	92%
Oakdale HS	1,600	0	0%	1,204	75%	0.21	925	194.25	0	1,398.25	87%

The current estimated cost of the Oakdale MS addition is \$8.9 million. Frederick County Public Schools has scheduled design in FY18 and construction in FY19 in the 2011 Superintendent's Recommended Educational Facilities Master Plan. The BoE has a public hearing scheduled for the 2011 EFMP on September 14<sup>th</sup> and is scheduled to adopt the EFMP on September 26<sup>th</sup>. The Oakdale MS addition project is not included in the County's approved FY12-17 CIP.

**Table 12. Linganore Feeder Pattern**

School	SRC	2009 Enrollment	%SRC	Projected 2019 Enrollment	Projected 2019 % SRC	Yield Factor
New Market ES	702	557	79%	834	119%	0.26
Green Valley ES	504	456	90%	519	102%	0.24
New Market MS	881	765	87%	618	70%	0.14
Windsor Knolls MS	924	606	66%	764	83%	0.10
Linganore HS	1,600	1,766	110%	1,350	84%	0.11

It should be noted that the Smith/Cline pupil yield is based on single-family homes.

It is clear from the analysis that with or without the residential component of the Town's Plan middle and high schools will be under capacity while elementary schools will be over capacity. It should be noted that Smith and Cline do not affect NMES or NMMS. Nonetheless, NMES is projected to at be 119% capacity by 2019.

This situation is attributable to two factors. First, there are 710 units in Lake Linganore and 161 units in Westwinds that are not subject to APFO. They were recorded before APFO was adopted. Secondly, the ratio of middle and elementary schools to high schools is 1-2-3. Specifically, FCPS generally hold that for each high school there should be two middle schools and six elementary schools. Linganore has two middle schools (NMMES and WNMS (portion)). However, it only has four elementary schools (Liberty, NMES, Twin Ridge (TRES) and GVES). There will be a need for 261 seats for elementary schools by 2019 for the three schools that service the New Market Annexation Areas (NMES 132, GVES 15 and DCES 114). It should be noted that TRES will be 116 seats under capacity by 2019. The County has two elementary school sites identified in its Comprehensive Plan, Harvest Ridge and Greenview. These schools would have a capacity of approximately 570 seats. According to Beth Pasierb, Facilities Planner at FCPS, the cost for construction of an elementary school at Greenview would be \$23 million. FCPS already owns in fee simple the Greenview site. Thus this figure does not include acquisition cost of land.

The planning challenge is to bring schools at or below 100% capacity subject to the financial and legislative constraints. The State of Maryland will not provide its share of school funding unless the school is near capacity when it is scheduled to open. If a new elementary school was constructed based on 2019 needs without development, it would open at 46% capacity (261/570). This is not likely to attract state funding. Further, development should be phased with the County's CIP for school construction. CIP's for school construction are generally financed by general obligation bonds. The County maintains a 2 to 1 ratio of impact fees to bonds. According to John Kroll, County Finance Director, it is unlikely to be a school CIP project for the New Market area for seven years. However, at that time the County may be able to finance a new elementary school for the New Market area provided that the impact fees from New Market area development contributes to maintaining the debt ratio.

APFO constitutes the legislative constraint. As is evidenced by the 871 units that are not subject to APFO, it does not take into consideration these types of "legacy issues." Thus, we may wait a very long time for the County to pay for a new school without bond and impact fee financing if when APFO prevents new development. Essentially, the County would need to save the money required for a new school over many years from its general fund or raise taxes, such as it did with recordation taxes. Given that the new school would only open at 45% capacity, the County would unlikely receive any state funding, thus the county taxpayer would fund the entire amount.

Alternatively, using the County APFO to drive development into the Town provides an opportunity to collaborate on a school concurrency plan. In exchange for the water and sewer utilities to offer the development the Town would provide a reasonable construction phasing schedule that would meet the needs of the County's CIP in order that development and public facilities could achieve concurrency. This would allow development to move forward in a measured fashion to achieve a stated goal. By adopting a joint planning agreement that utilizes all our concurrency tools and staging mechanisms we can put the planning pieces of the puzzle together one at a time in order to solve problems in a more timely fashion.

For example, if we allowed development at the Smith/Cline property there would be a need for 575 elementary school seats by 2019 (Smith/Cline 314 (see Table 11), NMES 132, GVES 15, DCES 114). Assuming that a new elementary school would have 570 seat capacity and that we could reasonably redistrict five students to Twin Ridge Elementary, we could achieve the goal of having all our schools at or under 100% capacity when the projects are completed. Further, we are much more likely to achieve school concurrency sooner rather than later since we will not be dependent on public financing. Rather, funding will be backed by developer impact fees and other Community Enhancement monies.

## **2. Financing**

In *Article VIII, B., Financing Responsibilities* this Plan states, "New development will pay its fair share of the costs associated with community facilities...." Similar to road infrastructure, upon appropriate study of projected school capacities, pupil yields attributable to annexed development, and an establishment of a reasonable phasing schedule that provides concurrency of development with school facilities, the Town may enter an annexation agreement that requires the developer to pay additional school enhancement money above and beyond the County impact fees in order to facilitate the construction of new capacity.



## C. Libraries

### 1. Background

The Town does not currently have a public library. The closest library can be found in the Town of Mt. Airy or the C. Burr Arts Library in the City of Frederick. The American Library Association suggests that there should be 1,000 sq. ft. of library space for every 10,000 persons. The Town is likely to never reach that population. Nonetheless, the Town may consider asking for the Franklin Smith home to serve as a community library and municipal building as part of a Smith/Cline annexation.

### 2. Financing

The impact fees for public libraries that the County would collect as part of a Smith/Cline annexation would total \$712,550. The Town could ask for a reasonable portion of these fees be allocated to equipping and staffing for a local library as part of a joint planning/annexation agreement.

Regarding the potential donation of the W. Franklin Smith home on South Alley for the purposes of a community/town library, Mr. Darrell Batson, Director, Frederick County Public Libraries provided the following information on staffing and cost of operations.

*"The best comparison I could make with County Library Facilities is the Point of Rocks Community Library. It is one room of the Community Center and is open 20 hours per week. Two part-time Library Assistant I staff members operate the library. The Library System had most of the furniture and collection on hand when we opened and so the only major costs were the computers, printers, circulation system, etc. The cost of operating this facility is approximately \$48,000.00 per year. However, we have a member of the Point of Rocks Community that contributes \$40,000.00 per year for its operation. It has a rotating collection, two public computers, full access to all electronic resources of the Library System, Interlibrary Loan privileges, and children's programming. At the present time it is averaging a circulation rate of 1,600 items per month."*

*"To fully set up a new facility and get it going like a regular library branch would be approximately \$25,000.00 to \$35,000.00. This is based on your description of the property. That is if the County Library System did it. Now you can start as a small volunteer operation with donated desks, shelves, collection and possibly a computer, but you will have monthly computer, electricity, sewer, water, etc. charges. It has also been our experience that small volunteer libraries that have started in our County during the past decade have ceased operation within a few months for lack of staffing and public usage."*

The initial outlay for the set-up would need to be placed in the Town's Capital Improvement Budget. The annual operating costs would need to be added to the Town's Operating Budget. The Town would need to conduct a fiscal impact study in order to determine whether the marginal tax income would support the cost of the proposed library operation.

## D. Public Safety

### 1. Background

The Frederick County Division of Fire and Rescue Services (DFRS) provides staffing for five fire and rescue personnel Monday thru Friday from 6am to 6pm. DFRS provides three fire and rescue



personnel during evenings and weekends. A map of response times is provided on Map 7. The New Market Fire Station is located at 76 W. Main St.

The Town participates in the Frederick County Sheriff's Department Extra Duty Hours program. It budgets approximately \$12,000/year or \$67/household annually for this service. It receives approximately 340 hours of deputy time, an average of 6 ½ hours per week. Most of the activity is focused on speed enforcement. New Market is not a high crime neighborhood.

The rule of thumb for police protection is one police officer for every 750 persons. The Town may not reach that population for several years. The capacity calculations for this Plan show the Town will have roughly 1,700 households at build-out. That yields a population of approximately 4,500 persons. Using the rule of thumb, the Town would need to hire six police officers. The current cost per officer under the Frederick County Sheriff's Dept Community Deputy Program is \$100,000/yr. At Town build-out, for six officers, the cost per household would be \$363. Given our low crime rate it is hard to imagine a rate for police protection that would require a doubling of the real property tax rate. The need for police protection should be continuously monitored as the Town grows.

## **2. Financing**

Police, fire, and rescue are services both town and county residents purchase. To the extent that the Town provides extra or duplicate services by participating in the Extra Duty Hours Program or budgetary contributions or fee waivers to the NMVFD, these expenditures would be eligible for a County-Municipal Tax Set off. The cost of these services and the required increase in resident's taxes to pay for them is discussed above. The marginal income from taxes received from each new County/Town resident should cover the marginal cost of that resident. Thus, if the County provides one deputy per every 750 residents a new deputy would be hired when the 750<sup>th</sup> resident moves in. If a new deputy cannot be hired, this would indicate a structural problem with the tax rate. Since County and Town residents are all paying the County the same tax, we should each receive the same service provided the County's tax structure is appropriate. Nonetheless, the Town desires to not only maintain but grow its public safety coverage through Extra Hours and Community Deputy Programs. The Town has a good relationship with the Sheriff's Department and the Frederick County Division of Emergency Management as evidenced by the Town's adoption of their Hazard Mitigation Plan. The Town views these services as shared not proprietary to the County. As the current Board of County Commissioners state, "We are One County."

*Article VIII, B. Financing Responsibilities* states, "New development will pay its fair share of the costs associated with community facilities...." Similar to road infrastructure, upon appropriate study of public safety needs, the Town may set a reasonable phasing schedule that provides concurrency of development with public safety facilities. The Town may enter an annexation agreement that requires the developer to pay additional public safety enhancement money to provide for the construction or renovation of new facilities. For example, the Smith/Cline annexation had provided for \$750,000 to go toward the construction of the NMVFD banquet hall.

## **E. Water and Sewerage Facilities**

The entire New Market Community Growth Area is identified for public water and sewer service, however many older town properties currently rely on individual well and septic systems. The County and Town have executed a series of Water Service Area Agreements that detail the timing and process for allocating water and sewer taps by the County to the Town. The initial phase of extending water to the Main Street properties was completed in 2009. Existing subdivisions and undeveloped land outside the municipal borders of New Market have the opportunity to connect to public water and sewer service.

New Market is served by the Monrovia Wastewater Treatment Plant (WWTP) and the New Market WWTP. Both of these facilities are interim plants that will be closed when the Bush Creek Sewer Interceptor, a developer-funded project, is constructed which will ultimately convey sewage from the New Market area to the Ballenger/McKinney WWTP.

### **1. 2010 County Water and Sewerage Plan Revisions**

- i. The County water and sewer service area matches the revised community growth boundary within the New Market Community.
- ii. An Agriculture/Rural plan designation replaced the Office/Research/Industrial plan designation on 26 acres in the eastern portion of the community and was removed from the growth area boundary and water and sewer service area.

### **2. Current Inventory**

In April 2003, the Town entered into a Water Service Area Agreement (WSAA) with the County.

The original agreement and its two amendments resulted in a total of 620 water and sewer taps or equivalent dwelling units (EDU). However, the allocation of 500 of these taps was controlled by an Initial Allocation Schedule contained in Section 8 of the WSAA, which limited the number of taps available to the Town and to two new subdivisions until certain infrastructure improvements for the Potomac River Water system were completed.' This original Allocation Schedule was developed long before the Potomac River water system infrastructure was fully designed or under construction. The original language of the agreement requires the completion of the entire 26 MGD New Design Road water system expansion before the later year allocations can be utilized.

The Initial Allocation Schedule was necessary when the original agreement was executed because there was a limited amount of water capacity available from the County's Lake Linganore water supply. Since that time the required infrastructure has been permitted, all of the treated water transmission line has been constructed, the Potomac River (New Design Road) WTP has been increased in capacity by 2.2 MGD and the construction project to expand the WTP to 25 MGD (Maximum) is 57% complete and the new portion of the WTP is scheduled to be commissioned in early 2010 providing capacity in excess of 16 MGD.

In addition to the treatment and transmission infrastructure outlined above, the County completed 2,180 linear feet of water along Royal Oak Drive and Wicomico Court in 2008 and constructed 6,370 feet of water line along Main Street in 2009.

As a result the progress of these infrastructure projects, the Third Amendment to the WSAA provides for the elimination of the initial Allocation Schedule and recognizes the immediate availability of all 620 water and sewer taps, with their allocation based on actual existing sewer service connections and vacant lots within the area of the Town covered by the WSAA, as well as those taps associated with existing Multi-Year Tap Agreements (MYTA), which the County has with two developers.

The original WSAA also limited the total number of sewer taps that would be available for use inside the Town of New Market for new construction to 256 EDUs, until the completion of certain wastewater conveyance and treatment projects. These projects include the Bush Creek interceptor project, the first phase of the McKinney VVWTP project, including its Potomac River Effluent Conveyance lines. Although these projects are not yet complete, their description and scope has changed sufficiently to amend the WSAA so that a clear understanding exists as to what infrastructure needs to be in place to allow for the allocation of additional wastewater capacity to the Town of New Market.

The first Phase of the McKinney WWTP expansion referenced in the early WSAA included the construction of a new WWTP in the McKinney Industrial Park and its associated Potomac River effluent outfall lines. Since the WSAA was executed the planning and design of the McKinney project has changed such that it is now an Expansion of the Ballenger Creek WWTP and the Potomac River effluent outfall will not be needed until flows to the new Ballenger-McKinney WWTP exceeds 15 MGD. Therefore the availability of additional wastewater system capacity, beyond the 256 taps identified for new construction, will only be limited to the construction of the Bush Creek Interceptor and the Ballenger-McKinney WWTP construction, not the treated effluent outfall line.

The Town of New Market has also expressed a desire to recognize additional water and sewer system capacity (beyond the 620) in the third amendment to the WSAA, which would become available with the completion of the referenced wastewater conveyance and treatment plant improvements. This Future water and sewer capacity are shown in Table 13 below and memorialized in the Third Amendment to the WSAA.

Since periodic WWTP plant capacity evaluations performed by the DUSWM can occasionally result in the allocation of some additional taps, based on lower than anticipated actual per EDU flow, a provision has been added to the Third Amendment that would allow for the accelerated allocation of water and sewer taps shown as Future in Table 13 subject to such evaluation. This accelerated allocation of these Future taps would be subject to any County reservation for other MYTA, other agreements or public need as it is defined in the DUSWM Rules and Regulations.

After the Bush Creek Interceptor and the Ballenger-McKinney WWTP construction is completed and operational, the Taps shown in Table 13 as Future would become available to provide additional capacity for existing commercial customers and service to additional properties within the area of the Town covered by the WSAA.

**Table 13. Water and Sewer Tap Allocations**

	<b>Total Allocated</b>	<b>Town of New Market</b>	<b>Royal Oaks</b>	<b>Brinkley Manor</b>	<b>Orchard</b>
Original WSAA	500 ea	275 ea	120 ea	105 ea	0
2 <sup>nd</sup> Amendment	120 ea	40 ea	0	0	80 ea
<i>Total Available</i>	<i>620 ea</i>	<i>315 ea</i>	<i>120 ea</i>	<i>105 ea</i>	<i>80 ea</i>
<b>Future</b>	150 ea	126 ea	0	0	24 ea
<b>Total</b>	<b>770 ea</b>	<b>441 ea</b>	<b>120 ea</b>	<b>105 ea</b>	<b>104 ea</b>

### **3. Water Demands Created by Projected Growth**

For general planning purposes, one dwelling unit will be considered to use 250 gallons of water per day. Using the MDP estimate of 179 households in 2005 and assuming that all homes were connected to a public water system, usage would be 44,750 gallons per day (gpd). Build-out to a population of 4,500 or 1,700 dwelling units would increase that figure to 425,000 gpd.

Surface water is considered by some to be necessary to supplement groundwater sources for either existing systems or the proposed area-wide system. Frederick County foresees the Potomac River as a prime water source for central Frederick County in the future. Should development of water and sewer treatment mechanisms follow this course, it is of utmost concern that the routes taken to transfer water to and from the river are environmentally secure and that the discharge into the river itself is of sufficient purity so as not to further pollute the Chesapeake Bay.

### **4. Sewer Demands Created by Projected Growth**

The Town is presently served by the Frederick County sewer system, with a sewage treatment plant located at the end of Main Street and the interchange of MD 75 and I-70. The plant is permitted for 240,000 gpd. A regional sewerage treatment plant is located south of Town along Bush Creek, across I-70 serves the Monrovia sewer service area. The Monrovia sewerage plant is considered a "long-term interim" facility until completion of the planned Bush Creek interceptor. The plant has a design capacity of 200,000 gpd. The availability of additional wastewater system capacity, beyond the 256 taps identified for new subdivision construction in the original New Market WSAA, will only be limited to the construction of the Bush Creek Interceptor and the Ballenger-McKinney WWTP construction, not the treated effluent outfall line. Future treatment capacity will depend on the completion of the Bush Creek Interceptor to convey sewage to the Ballenger Creek or McKinney WWTPs for treatment. The Monrovia plant would then be used for pre-treatment or abandoned altogether.

One dwelling unit is considered to produce 250 gallons of wastewater per day. Using the MDP estimate of 179 households in 2005 and assuming that all homes were connected to a public sewer system, usage would be 44,750 gallons per day (gpd). Build-out to a population of 4,500 or 1,700 dwelling units would increase that figure to 425,000 gpd.

## 5. Financing

The provision of water and sewer service within the Town of New Market, by agreement, is provided by Frederick County, specifically, the County's Division of Utilities and Solid Waste Management (DUSWM). The DUSWM water and sewer systems are proprietary enterprise funds within the County government. The DUSWM uses a number of mechanisms to fund water and sewer system expansions and improvements. The County and its municipalities have the legal means to finance water and sewerage facilities through the issuance of general obligation bonds backed by the full faith and credit of the respective jurisdiction. With few exceptions the major elements of the water and sewer infrastructure such as treatment plants, transmission lines and interceptors are funded by the enterprise's Capital Improvements Program (CIP), while distribution system expansions are typically funded by developers or others. The County's water and sewer plan provides additional detail on the anticipated expansion (and source of funding) of County water and sewer systems.

### F. Stormwater Management

The Town is making progress toward adopting the significant changes to environmental laws related to stormwater management as a result of the Stormwater Management Act of 2007. Frederick County now enforces these regulations for the Town.

### G. Recreation

The Town owns and maintains two parks. The first is located on East Main Street and consists of two basketball courts, a tennis court, and a playground. The second is located in the middle of Town on Main Street. It consists of a water fountain surrounded by a resting area with park bench seating.

Via annexation of the Royal Oaks Subdivision, approximately 100 acres of land are dedicated for public use, some of which are now being developed for active recreation. The remainder could accommodate a network of hiking and biking trails connecting to the town.

Frederick County has identified New Market as a site for a community park. In addition, Frederick County has selected a location east of New Market for a District Park. The term "District Park" is defined as a large park of over 100 acres providing a wide range of recreational opportunities while remaining as much as possible in a natural state for conservation-related purposes. Along with facilities such as a large picnic area, athletic fields and courts, a playground, and parking areas, the park will include an extensive natural area for hiking and perhaps fishing and camping.

The New Market Elementary and Middle Schools participate in Frederick County's School Community Center Program. The schools provide their facilities for a variety of youth and adult activities after school, evenings and weekends. The facilities at these schools are presently 100% utilized throughout the calendar year.

The County standard for parks is 25-acres/1000 population and it currently provides 475 acres of parkland. The County anticipates a need for an additional 522 acres of parkland by 2020 and currently spends approximately \$1,200/acre to operate parks. The Town has 106 acres of

parkland. Our population is 656 and, assuming the build-out of Royal Oaks, Brinkley Manor, Orchard, and Smith/Cline, the Town's population will be approximately 4,126. This translates into, using County standards, a need for a total of 112 acres of parkland. Table 14 illustrates each subdivision's contribution to the Town's planned total parkland area. This scenario will allow the Town to "contribute" 79 acres of excess parkland to help fill the current deficit of 3,537 acres in County parkland needs.

**Table 14. Parkland Acreage**

<b>Location</b>	<b>Acres</b>
Town	106
Royal Oaks	0
Brinkley Manor	10
Orchard	15
Smith/Cline	65
<b>Total</b>	<b>196</b>

#### **H. Burdens on Municipally Provided Services and Infrastructure Lying Beyond the Proposed Municipal Growth Area**

No burdens on New Market-provided services and infrastructure lying outside the preferred Annexation Area can be identified at this time.

#### **I. Infrastructure Summary**

**Schools:** Elementary schools servicing the New Market Annexation areas will be over capacity by 2019. The Town believes it can solve these problems collaboratively with the County using its concurrency tools and staging mechanisms.

**Roads:** It would appear from the County CIP that all regional road improvements lead to Main St. and 15,600 vpd. The Streetscape Plan for New Market, as currently proposed, may calm traffic, but it will not prevent it. Adding more "teeth", such as adding speed humps to take a bite out of traffic, will have three unintended consequences. First and most importantly, it will have a detrimental affect on the emergency response of fire and rescue equipment. Secondly, it will cause greater traffic congestion on Main St. This will make getting in and out of driveways, alleys, and public facilities such as the schools and post office more difficult. Lastly, without a bypass, this leaves the residents of Lake Linganore with no reasonable alternatives for getting out. Neither a "beefed up" Main St. nor Gas House Pike would be attractive. This would have the affect of transferring the Town's problem onto the residents of Lake Linganore. This is not good government and supports the need for a Smith/Cline bypass.

Furthermore, a study to determine the effects of the completion of the Meadow Rd. interchange in conjunction with "streetscape" should be conducted. The Town suspects that adding the bypass, interchange, and streetscape will greatly reduce traffic volume on Main St. The

Town also needs to work with the developer of Royal Oaks subdivision to create a connection for Royal Oaks Dr. through Royal Oaks subdivision.

**Parkland:** The Town will work with developers to create additional parkland as well as improve existing parkland.

**Water and Sewer:** Given that amendments to the WSAA are subsequent to annexation as opposed to prior to annexation, the WSAA should be amended to strengthen New Market's growth potential. Specifically, reversing the order of amendments would lead contiguous property owners to the Town for annexation. The current situation is revealed by the lack of annexation requests for commercial and industrial properties south of I-70. Currently, the County treats the town similarly to individual property owners and developers. That is, first come, first served. However, unless the property owner has vested rights in capacity derived from the property, the Town maintains that since its role is to fill a greater public purpose, the County should ascribe a greater priority to the Town with respect to utility appropriations. The Town believes the proper order of utilities should trickle down from the Potomac to the MDE to the County to the Town in order to serve its mutually agreed growth area. All of these bodies belong to the public.

**Fire Safety:** The Town has no authority over the New Market Volunteer Fire Department. However, plans to improve the facility at its current location are supported by the community.

**Police:** Where there are standards to apply to public services, it would appear that reaching the desired level of police protection presents the greatest challenge to the Town's and the County's operating budget. This emphasizes the importance of conducting a thorough fiscal impact of future annexations. Furthermore, it adds emphasis to the need for a balanced tax base in both the County and Town.

**General Provision of Community Services:** Annexation applicants shall be prepared to address the community-wide impact of each proposed land use on the need for public facilities and services, related transportation and housing consequences, and their subsequent effects on the Town's resources.

## VII. WATER RESOURCES

The New Market Master Plan's *Article VII, Water Resources*, is a new Plan element. It is mandated to assure compliance with the requirements of Maryland House Bill 1141 (HB 1141). The purpose of the Water Resources section (or WRE) is to provide additional layers of planning for water resources in relation to existing use and proposed land use, based on an analysis of growth and development trends to assure demands for water supply can be satisfied as Town growth occurs and to assure measures are taken to minimize impacts to water quality.

New Market's water and sewage treatment facilities are managed by Frederick County and provided to the Town based on Water Service Area Agreements that detail the timing and process for allocating water and sewer taps by the County to the Town. Because of the limited influence that the Town exerts in managing growth and the provision of water and sewer facilities in the watershed and County, the Town's WRE will freely reference and refer readers to the Frederick County Water Resources Element adopted in 2010. New Market is identified as a Community Growth Area (CGA) in the overall County Comprehensive Plan.

The New Market WRE is directly linked to a number of other Plan elements. They include: 1) the Land Use Plan; 2) the Municipal Growth Element; and 3) Community Facilities elements. The Water Resources Element addresses three major areas including water (both supply and quality), wastewater treatment and discharge, and stormwater management.

Among other things, preparation of the WRE is an exercise intended to test water resource capacity limits, determine the potential implications of water resource issues for future growth, and facilitate development of coordinated management strategies. The Town of New Market represents a very small portion of the much larger Monocacy River watershed. Since water resource protection issues are of concern watershed-wide, much of the effort to protect or enhance water quality will be dependent on County and State actions and programs. Nevertheless, this plan element evaluates New Market's role in protection of Water Resources in this larger context.

The purpose of the Water Resources Element (WRE), as defined in Maryland House Bill 1141, is to establish a clear relationship between existing and proposed future development; it further establishes the relationship between drinking water sources and wastewater facilities that will be necessary to serve that development and measures to limit or control the stormwater and nonpoint source water pollution that will be generated by new development.

Specifically, the statutory requirements are:

- Identify drinking water and other water resources that will be adequate for the needs of existing and future development proposed in the land use element of the plan, considering available data provided by the Maryland Department of the Environment (MDE).
- Identify suitable receiving waters and land areas to meet the stormwater management and wastewater treatment and disposal needs of existing and future development proposed in the land use element of the plan, considering available data provided by MDE.



- Adopt a WRE in the comprehensive plan on or before October 1, 2009, unless extensions are granted by Maryland Department of Planning (MDP) pursuant to law. Zoning classifications of a property may not be changed after October 1, 2009 if a jurisdiction has not adopted a WRE in its comprehensive plan.

This element of the Plan assesses the Town's access to drinking water sources and wastewater treatment facilities and their ability to support existing and future development. It also identifies suitable receiving waters for existing and future wastewater and stormwater discharges. The Town of New Market, has prepared this Water Resources Element to assure the Town will focus growth to areas best suited to use the existing and planned water and wastewater infrastructure; to nurture efficient patterns of growth, protect and preserve the natural environs, promote economic growth, and support diversity of living environments in the Town.

### A. Overview

The provision of water and sewer service within the Town of New Market, by agreement, is provided by Frederick County, specifically, the County's Division of Utilities and Solid Waste Management (DUSWM). The DUSWM water and sewer systems are proprietary enterprise funds within the County government. The DUSWM uses a number of mechanisms to fund water and sewer system expansions and improvements. The County and its municipalities have the legal means to finance water and sewerage facilities through the issuance of general obligation bonds backed by the full faith and credit of the respective jurisdiction. With few exceptions the major elements of the water and sewer infrastructure such as treatment plants, transmission lines and interceptors are funded by the enterprise's Capital Improvements Program (CIP), while distribution system expansions are typically funded by developers or others. The County's water and sewer plan provides additional detail on the anticipated expansion (and source of funding) of County water and sewer systems.

By agreement, the County is the sole provider of water in the Town. Paragraph 10 of the WSAA specifically states:

"The Town acknowledges and agrees that the County shall be the sole provider of water service within the boundaries of the Town, as shown on Exhibit A. To the extent that the boundaries may, from time to time, be modified through annexation, the Town and the County will amend this WSAA or enter into a new agreement for water service to additional areas."

Specific information on the County's water supply system can be found in the County's Water and Sewerage Plan. The County's Potomac River water supply is the primary source of water for the Town of New Market. Both the incorporated and un-incorporated areas near New Market are designated to be served by the County's public water supply. Specifically, the New Market area is served by the County's East County Water Distribution system that relies on the Potomac River supply, which has a permitted and physical capacity of 25 million gallons per day (MGD). Although the amount of water system capacity provided is presently limited by the WSAA, these limitations were based on the need to complete certain water (and sewer) infrastructure projects to establish the full amount of capacity needed by the area. The WSAA agreement is a living document, which can be amended as needed to increase the amount of water system capacity specifically available to and provided within the Town. **The County's Potomac River water supply system currently has adequate capacity to serve the number of equivalent**

**dwelling units the Town expects to have at build-out.** However, water distribution lines within the Town, to serve all of these units, are not yet in place.

(Statement provided by Frederick County Division of Utilities and Solid Waste Management follows in italics.)

### ***Water and Sewer Service Purveyor***

*The Frederick County Division of Utilities and Solid Waste Management (DUSWM) is sole purveyor of water and sewer services within the Town of New Market and the surrounding area. The DUSWM uses recognized methods and industry standards to estimate water and sewer capacity requirements for both undeveloped and developed land. Estimates for undeveloped land are based on the Frederick County Design Manual for Water and Sewer Facilities (Appendix C, Page C-125), adopted by the Frederick County Board of County Commissioners in 1994.*

*As the sole provider of both water and sewer services to the Town of New Market, the County has the responsibility for planning, developing and operating the water and sewer infrastructure to serve properties within the County's service areas. Long term water and sewerage planning, for the Town, is contained within the County's Water and Sewerage Plan. Additionally, the Water Service Area Agreement (WSAA) executed between the County and Town of New Market in April 2003, which prohibits the Town from maintaining a subsidiary Water and Sewerage Plan.*

### ***Frederick County Water Resource Element***

*The Frederick County Water Resource Element (WRE), adopted in September 2010, provides detailed information on the County's water and sewer system capacity. Table 5 of the WRE, shows that the New Market Community Growth area is served by the County's New Design Road (Potomac River) water supply system, which has a current maximum day capacity of 25 MGD and has been planned (and constructed) so that it can be expanded from 25 MGD to 45 MGD.*

*The County's wastewater treatment capacity is shown in Table 7 of the WRE. This information reflects current, approximate design capacities and current demand of the individual county systems. The County's largest WWTP will ultimately serve the Town of New Market. The Ballenger-McKinney WWTP, which is currently under a major ENR upgrade and expansion to 15 MGD, will provide service to most of the County's sewer system customers, including those within the Town of New Market.*

*MDE has approved a maximum-average daily design flow of 18 MGD for the Ballenger-McKinney WWTP, which is based on a maximum nutrient loading allocation of 219,280 lbs/year total nitrogen (TN) and 16,446 lbs/year total phosphorus (TP). This wastewater treatment plant is permitted to discharge an average of flow of 15 MGD to the Monocacy River; discharges in excess of 15 MGD will be diverted to the Potomac River through the County's Potomac River outfall system, which is already in place.*

*Expansions beyond 18 MGD will require additional nutrient allocation. However, the WRE anticipates that 20-year (2010 to 2030) capacity utilization at Ballenger-McKinney WWTP will be between 12 to 18 MGD.*

*Moreover, with the completion of the Bush Creek Interceptor, the County will be decommissioning the New Market WWTP, along with the Monrovia WWTP and the Landfill Leachate treatment plant, and diverting its flow to the Ballenger-McKinney WWTP. Since the smaller New Market WWTP is not required to meet BNR or ENR treatment requirements, this diversion reduces both nutrient and conventional effluent loading to Bush Creek and eventually the Chesapeake Bay.*

*Table 8 indicates the projected residential development potential in the Community Growth Areas with their particular wastewater system. Due to the complex and dynamic nature of wastewater treatment, figures in Table 7 do not constitute a complete evaluation of actual capacity (and demand) for use in allocating capacity for specific properties.*

### **New Market Water Service Area Agreement**

*The Town of New Market executed a Water Service Area Agreement (WSAA) with Frederick County in April 2003, which among other things designed Frederick County as the Sole Provider of water service within the boundaries of Town. The WSAA recognized the fact that the boundaries of the Town may, from time to time, be modified through annexation and the Town and the County will amend the agreement or enter into a new agreement for water service to additional newly annexed areas. Although the WSAA allocated and reserved an initial 500 taps (capacity) to the Town, the agreement anticipated the provision (by the County) of additional capacity once the initial 500 taps are purchased. Since the Town has not yet purchased the initial 500 taps, amending the WSAA to increase the number of taps has not been necessary.*

*In summary, the Town of New Market is not responsible for the planning and development of the County's water and sewer infrastructure that serves the Town of New Market and the surrounding area. This responsibility lies with Frederick County DUSWM. Therefore the MDP should refer to Frederick County's WRE when evaluating available water and sewer capacity for the Town of New Market. The County's WRE clearly identifies that existing and planned capacity in the County water supply and wastewater treatment system can serve the Town of New Market.*

See: [http://www.frederickcountymd.gov/documents/Planning/Comprehensive%20Plans/Background%20Reports/WRE%20Adopted\\_Sept2010.PDF](http://www.frederickcountymd.gov/documents/Planning/Comprehensive%20Plans/Background%20Reports/WRE%20Adopted_Sept2010.PDF)

### **B. Frederick County Watersheds [From Frederick County WRE p.7]**

Water in Frederick County flows across two major watersheds: the Catoctin Creek watershed to the west of the Catoctin Mountains and the Monocacy River watershed to the east. Both watersheds lie within the larger Potomac River Basin, which drains to the Chesapeake Bay. The headwaters of the Monocacy River are in the Gettysburg, PA vicinity; the free flowing river then meanders 58 miles south to its confluence with the Potomac near the Montgomery County line. Approximately 75% of Frederick County's land area drains to the Monocacy River. There are seven municipalities within the watershed including Emmitsburg, Frederick, Mount Airy, New Market, Thurmont, Walkersville and Woodsboro. In addition, ten unincorporated communities are located in the watershed, which include: Adamstown, Ballenger Creek, Buckeystown, Holly Hills, Libertytown, Linganore, Monrovia, Point of Rocks, Spring Ridge/Bartonsville, and Urbana.

The Monocacy River is an impaired stream and Total Maximum Daily Loads (TMDLs) have been issued by the Maryland Department of the Environment (MDE) for fecal coliform bacteria in the upper and lower reaches of its watershed. Other Draft TMDL's are under review/comment for biological impairment (fish and stream insects), nutrients, and sediment. Two sub-watersheds, Linganore Creek and Double Pipe Creek, have been issued TMDL's for sediment and phosphorus as well as sediment and fecal coliform bacteria, respectively.

### C. Planning Framework [From Frederick County WRE p.3]

The County's land use plan designates twenty-two Community Growth Areas (CGAs) where residential, commercial, and employment uses will be concentrated. Ten of the CGAs are municipalities (New Market is in this category) and their future annexation areas; the remaining twelve are unincorporated communities located in the county. The intent of the land use plan is to direct development to the designated CGAs while protecting the county's green infrastructure and agricultural/rural resources. CGAs will be targeted for public facility and infrastructure financing and improvements. A higher level of available community services is to be expected within a CGA.

Water and sewer service is provided or planned for all CGAs whereas areas beyond the CGA will only be served by future individual well and septic systems. The only exception to this policy, referenced in the County Water and Sewerage Master Plan, is reconciliation of a public health emergency, where public water or sewerage service would be required to maintain health, safety and welfare.

### D. Population Projections

The County projects a population of 331,700 in 2030, which is an increase of approximately 98,300 people. This population increase would result in a need for an estimated 37,100 new dwelling units. Since new residential development is targeted to CGAs in the land use plan, the majority of new growth should occur in water and sewer service areas. With approximately 61% of the County's current population located within community growth areas it would be expected that approximately 22,631 dwellings, of the estimated 37,100 dwellings needed by 2030, would be located within the community growth areas, where public water and sewer service is provided. [From Frederick County WRE p.6]

**Table 15. Frederick County Projected Dwelling Needs to 2030**

Projected 2030 Population	331,700	Projected Additional Population 2009-2030	98,300
Current 2009 Population	233,439	Projected 2030 Household Size	2.65
Current Household Size	2.72	Gross Dwellings Needed	37,100

[From Frederick County WRE p.6]

Until recently, New Market was typical of most rural communities in physical form, with single-family homes placed on narrow lots lining a single main street. Almost without exception, building followed the original plat lines laid out in 1793. Interspersed, but concentrated in the center of Town, were a few small-scale commercial uses serving the local needs of townspeople, such as a grocer, post office, and auto garage. Gradual yet hardly noticeable changes occurred when the occasional new residence was built. This image changed somewhat in 1980 when a major subdivision of single-family homes (Sponseller's Addition) was built on the west end of New Market, distinctly changing its physical shape and practically doubling its population (from 110 to 192). Since then, another large parcel on the north boundary of the Town (Royal Oaks) was annexed in 1989 and also laid out for residential use, with the potential for adding another 120 homes, again almost doubling the population. Brinkley Manor was

annexed in 1999 and designed for 109 homes. Still another annexation in 2004, the Orchard at New Market, will bring 104 single-family homes, over 300 new residents, and 43,000 sq ft of retail and office space. The three annexations total 333 lots. As of June 2011, 148 homes were occupied or under construction.

### **Background and Trend Data**

Based on the Census Bureau's most recent population estimates, the Town of New Market had a population of 656 in 2010, an increase of 229 since the 2000 Census (427). In 2000, the Town had a total of 159 households. The Town of New Market is expected to grow from 247 households in 2010 to 647 by 2030, an increase of 400.<sup>5</sup>

### **Capacity Analysis**

The results of the growth model use the default MDP assumptions of the model and the current zoning of the Town. According to MDP's capacity analysis, there was a total capacity of 365 households within the Town limits based on 2005 household estimates. Subtracting the household growth from 2005 to 2010 (68 new households) from the total capacity of 365 leaves a 2010-based capacity of 297 (365 – 68 = 297). There is not sufficient capacity for New Market's projected growth of an additional 400 households by 2030.

The capacities for each zoning category are shown in the Table below.

**Table 16. Zoning District Household Capacity**

<b>Zoning District</b>	<b>Zoning District Description</b>	<b>New Household Capacity</b>	<b>Acres</b>
<b>AP</b>	Amusement Park		17.7
<b>I</b>	Institutional		3.4
<b>MC</b>	Mixed Commercial		5.2
<b>MRS</b>	Mixed Residential Service	26	21.7
<b>OS</b>	Open Space*		6.3
<b>R1</b>	Low Density Residential	336	266.9
<b>R2</b>	Medium Density Residential		1.0
<b>RM</b>	Residential Merchant	3	41.2
<b>TOTAL</b>		<b>365</b>	<b>363.4</b>

*\*This category does not include the acreage contained in the "100-acre Park." This land has no development capacity.*

The Land Use Map considered by the community has changed from the MGE Plan adopted November 17, 2010. The 2012 Land Use Plan is the result of a collaborative effort with the County Division of Community Development. It overlays the Town's Annexation Area with the County's Community Growth Area. In order to distinguish the difference between the County's Commu-

<sup>5</sup> US 2010 Census and Draft Town of New Market Development Capacity Analysis, MDP, November 2009 (see Appendix B).

nity Growth Area and the Town's growth area, the Town will describe its growth area as an annexation limit (outlined in green).

The Town has eliminated both the Casey Blentlinger and Audubon properties from its plan. The Annexation Area includes the Smith, Cline, Delaplaine, Ganley, CVS Pharmacy, New Market Shopping Center, Food Lion, Demmitt Property and those south of I-70 but east of the Intercoastal property.

The Town's Annexation Area is consistent with the County's 2010 Plan with the exception of the Smith, Cline and Delaplaine properties. The Smith, Cline and Delaplaine properties were included in the County's 2008 New Market Community Growth Area.

2030 population estimates for the various New Market residential development configurations follow.

**Table 17. 2030 Population Estimates**

Source of Estimates	Town of New Market 2010	New Market Growth Area (Capacity Analysis)	New Market Annexation (by Town)	Total Population	Land Needed in Acres(2)
MDP	656	1,024	NA	1,680	99
Frederick County	656	875	NA	1,571	102
New Market	656	843(1)	+2,627(3)	4,126	484
	(1) In-Town Household capacity (Table 8) - new households x 2.84 (365-68) x 2.84				
	(2) Density yield with sewer @ 3.0 du/acre				
	(3) Includes 925 du (266 acres @ 3.5 du/acre on Smith/Cline				

The selected direction of growth and use of land is shown on Map 3 New Market Proposed Land Use. The Smith and Cline properties are designated as Planned Residential Development (PRD). It is contemplated that they would have R1 zoning, but encouraged to seek a PDD floating zone. The New Market Shopping Center, Food Lion and CVS Pharmacy and related properties are designated Mixed Commercial and would likely be placed in a Mixed Commercial zoning district. The Delaplaine, Ganley, Demmitt and properties south of I-70, but east of Intercoastal will be designated as Economic Development Flex Areas (EDF). The purpose of these areas are to provide a high degree of flexibility to encourage uses that are compatible with employment based and related accessory uses and are harmonious with the character of the town. The EDF would not include the most obtrusive uses such as truck stops, solid waste, heavy industrial and manufacturing uses, but would allow fabrication and assembly uses associated with high tech industries. The Town may further limit uses if deemed appropriate as part of an annexation agreement. **Creation of a new zoning category for land proposed as EDF will be considered as the implementation of the Plan subsequent to its adoption.**

## E. Water Service Area Agreement Background

The entire New Market Community Growth Area is identified for public water and sewer service; however, many older town properties currently rely on individual well/septic. The County and Town have executed a series of Water Service Area Agreements (WSAA) that details the timing and process for allocating water and sewer taps by the County to the Town. The initial phase of extending water to the Main Street properties was completed in 2009. Existing subdivisions and undeveloped land outside the municipal borders of New Market have the opportunity to connect to public water and sewer service.

New Market is served by the Monrovia Wastewater Treatment Plant (WWTP) and the New Market WWTP. Both of these facilities are interim plants that will be closed when the Bush Creek Sewer Interceptor, a developer-funded project, is constructed which will ultimately convey sewage from the New Market area to the Ballenger/McKinney WWTP.

In April 2003, the Town entered into a Water Service Area Agreement with the County.

The original agreement and its two amendments resulted in a total of 620 water and sewer taps or equivalent dwelling units (EDU). However, the allocation of 500 of these taps was controlled by an Initial Allocation Schedule contained in Section 8 of the WSAA, which limited the number of taps available to the Town and to two new subdivisions until certain infrastructure improvements for the Potomac River Water system were completed.' This original Allocation Schedule was developed long before the Potomac River water system infrastructure was fully designed or under construction. The original language of the agreement requires the completion of the entire 26 MGD New Design Road water system expansion before the later year allocations can be utilized.

The Initial Allocation Schedule was necessary when the original agreement was executed because there was a limited amount of water capacity available from the County's Lake Linganore water supply. Since that time the required infrastructure has been permitted, all of the treated water transmission line has been constructed, the Potomac River (New Design Road) WWTP has been increased in capacity by 2.2 MGD and the construction project to expand the WWTP to 25 MGD (Maximum) is 57% complete and the new portion of the WWTP is scheduled to be commissioned in early 2010 providing capacity in excess of 16 MGD.

In addition to the treatment and transmission infrastructure outlined above, the County completed 2,180 linear feet of water along Royal Oak Drive and Wicomico Court in 2008 and constructed 6,370 feet of water line along Main Street in 2009.

As a result the progress of these infrastructure projects, the Third Amendment to the WSAA provides for the elimination of the initial Allocation Schedule and recognizes the immediate availability of all 620 water and sewer taps, with their allocation based on actual existing sewer service connections and vacant lots within the area of the Town covered by the WSAA, as well as those taps associated with existing Multi-Year Tap Agreements (MYTA), which the County has with two developers.

The original WSAA also limited the total number of sewer taps that would be available for use inside the Town of New Market for new construction to 256 EDUs, until the completion of certain wastewater conveyance and treatment projects. These projects include the Bush Creek interceptor project, the first phase of the McKinney VVWWTP project, including its Potomac River



Effluent Conveyance lines. Although these projects are not yet complete, their description and scope has changed sufficiently to amend the WSAA so that a clear understanding exists as to what infrastructure needs to be in place to allow for the allocation of additional wastewater capacity to the Town of New Market.

The first Phase of the McKinney WWTP expansion referenced in the early WSAA included the construction of a new WWTP in the McKinney Industrial Park and its associated Potomac River effluent outfall lines. Since the WSAA was executed the planning and design of the McKinney project has changed such that it is now an Expansion of the Ballenger Creek WWTP and the Potomac River effluent outfall will not be needed until flows to the new Ballenger-McKinney WWTP exceeds 15 MGD. Therefore the availability of additional wastewater system capacity, beyond the 256 taps identified for new construction, will only be limited to the construction of the Bush Creek Interceptor and the Ballenger-McKinney WWTP construction, not the treated effluent outfall line.

The Town of New Market has also expressed a desire to recognize additional water and sewer system capacity (beyond the 620) in the third amendment to the WSAA, which would become available with the completion of the referenced wastewater conveyance and treatment plant improvements. This Future water and sewer capacity are shown in Table 18 below and memorialized in the Third Amendment to the WSAA.

Since periodic WWTP plant capacity evaluations performed by the DUSWM can occasionally result in the allocation of some additional taps, based on lower than anticipated actual per EDU flow, a provision has been added to the Third Amendment that would allow for the accelerated allocation of water and sewer taps shown as Future in Table 18 subject to such evaluation. This accelerated allocation of these Future taps would be subject to any County reservation for other MYTA, other agreements or public need as it is defined in the DUSWM Rules and Regulations.

After the Bush Creek Interceptor and the Ballenger-McKinney WWTP construction is completed and operational, the Taps shown in Table 18, as "Future" would become available to provide additional capacity for existing commercial customers and service to additional properties within the area of the Town covered by the WSAA.

## **F. Drinking Water Capacity and Demand**

### **1. Background**

In Frederick County, drinking water service is either currently provided or planned for properties within the municipal and unincorporated community growth areas. The designated water service areas for the County generally mirror the various community growth areas. Nearly 60% of the County's residents obtained their drinking water from community water systems in 2006 with the remaining 40% of the population relying on individual wells. [From Frederick County WRE p.16]

Table 19 references the current capacities of the Individual County and municipal water systems. Under the County systems are listed the community growth areas served by that particular systems. In particular the County's New Design System serves several of the County's unincorporated growth areas in addition to the City of Frederick and the Town of New Market. It is important to note that the capacities referenced in both Tables 19 and 20 are based on



existing treatment facilities and water sources and do not include additional water supplies in the planning or development stages. Table 20, however, compares the potential demand from the residential build out of the community growth areas, which may occur over a 20+-year time frame with the current available capacity. While this Table illustrates obvious discrepancies between current capacities and potential demand several systems have programmed and planned improvements that will increase their drinking water supplies. [From Frederick County WRE p.16].

**Table 18. Water and Sewer Tap Allocations**

	<b>Total Allocated</b>	<b>Town of New Market</b>	<b>Royal Oaks</b>	<b>Brinkley Manor</b>	<b>Orchard</b>
Original WSAA	500 ea	275 ea	120 ea	105 ea	0
2 <sup>nd</sup> Amendment	120 ea	40 ea	0	0	80 ea
<i>Total Available</i>	<i>620 ea</i>	<i>315 ea</i>	<i>120 ea</i>	<i>105 ea</i>	<i>80 ea</i>
<b>Future</b>	150 ea	126 ea	0	0	24 ea
<b>Total</b>	<b>770 ea</b>	<b>441 ea</b>	<b>120 ea</b>	<b>105 ea</b>	<b>104 ea</b>

**Table 19. Current Drinking Water Capacity and Demand**

Water System	Permitted Capacity gpd	Current Demand	Current Available Capacity gpd	Current Available Capacity EDU (1)
New Design System (serving New Market)	16,000,000	3,602,000	9,998,000	26,991

(1) Assumes 250 gpd per dwelling [From Frederick County WRE p.18]

**Table 20. Current Drinking Water Capacity and Potential Demand**

Water System	Pipeline Dwellings	Undeveloped Potential Dwelling Units	Total Potential Dwelling Units	Current Available Capacity EDU
New Design System (serving New Market)	13,842	10,247	24,079	26,991

[From Frederick County WRE p.19]

The County's New Design System serves the following Unincorporated Growth Areas: Adamstown, Buckeystown, Ballenger Creek, Frederick Southeast, Holly Hills, Linganore, Monrovia, New Market, Point of Rocks, Spring Ridge and Urbana. The New Design Water Treatment Plant (WTP) has a Potomac River allocation of 16 mgd (daily average) and 26 mgd (month of maximum use). This system also provides water to the City of Frederick has defined in the Potomac River Water Supply Agreement. Using daily average water demand, this system has the capacity to serve about 27,000 additional households. [From Frederick County WRE p.22]

The County's Potomac River water supply, which includes the County's New Design Road Water Treatment Plant, has a permitted and installed capacity of 25 MGD. The recently expanded New Design Road WTP has been designed so that it can be expanded in increments up to 45 MGD.

## **2. Water Demand Created by Projected Town Growth**

For general planning purposes, one dwelling unit will be considered to use 250 gallons of water per day. Using the MDP estimate of 247 households in 2010 and assuming that all homes were connected to a public water system, usage would be 61,750 gallons per day (gpd). Build-out to a population of 4,500 or 1,700 dwelling units would increase that figure to 425,750 gpd. Assuming that the pipeline dwellings in Table 6 include the New Market subdivisions that are under construction (333 du), the proposed addition of slightly over 1,100 dwelling units within the Town and in the Smith/Cline annexation would represent roughly 4% of the currently available County water capacity for EDUs in the New Design System.

The 315 acres of mixed commercial/industrial proposed for the Delaplaine, Ganley, and Demmitt properties at full build-out could add another 510,000 gpd (at .1 gpd per square foot of commercial/industrial space).

The County is the sole water supply purveyor for the Town. The Potomac River water supply system is the County's primary water supply for the New Market area. The County's New Design Road WTP has an existing maximum day capacity of 25 MGD, of which 8 MGD is allocated to the City of Frederick. The remainder, 17 MGD represents the amount of system capacity available for the County's water service areas. The County planned the New Design Road WTP, its river intake, and treated water transmission system, for an ultimate capacity of 45 MGD.

The recently completed 25 MGD expansion (of the 45 MGD Ultimate Capacity) is the first major phase of the WTP planned capacity.

The County prospectively uses the 250 GPD/EDU average daily value until actual long-term demand data for a particular area is established and can be relied upon. Presently the entire Town is not served by the County's public water supply system. The WSAA anticipated a protracted expansion of water lines into the Town, which is in part the basis for the allocation tables in the WSAA. The County allocates water system capacity based on maximum day demand not average daily demand.

## **G. Wastewater Treatment Capacity and Demand**

### **1. Background**

Eight municipalities, Fort Detrick, and Frederick County provide community sewerage service. There are three privately owned small community systems serving mobile home and trailer parks. Thirty-one multi-use systems exist in the County; these facilities serve individual businesses or institutional uses such as places of worship and schools. It is important to note that the wastewater treatment capacities described in Tables 21 and 22 reflect current design capacities, which may be increased in the future. In Table 22 the current capacities are compared with the potential demand, which reflects the build out of all of the community growth areas, which may occur over a 20+-year time frame. [From Frederick County WRE p.34]

**Table 21. Current Wastewater Treatment Capacity and Demand**

Wastewater System	Receiving Streams	Permitted Capacity gpd	Current Demand gpd	Current Available Capacity gpd	Current Available Capacity EDU
Ballenger/McKinney System (serving New Market)	Monocacy River	7,000,000	5,238,000	796,000	3,184

*[From Frederick County WRE p.35]*

**Table 22. Current Wastewater Treatment Capacity and Potential Demand**

Wastewater System	Pipeline Dwellings	Undeveloped Potential Dwelling Units	Total Potential Dwelling Units	Current Available Capacity EDU
Ballenger/McKinney System (serving New Market)	13,795	10,851	24,636	3184 (1)

*(1) Existing Ballenger WWTP only, McKinney expansion will add 11 MGD average daily design flow.  
[From Frederick County WRE p.36]*

**a. Quality of Effluent/Impact to Water Resources [From Frederick County WRE p.33]**

Wastewater treatment plants (WWTPs) treat raw wastewater to meet effluent requirements established by the Maryland Department of the Environment (MDE). WWTP's are considered point sources since they discharge the effluent directly into streams at single point. MDE issues a National Pollution Discharge Elimination System (NPDES) permit for each WWTP, which specifies the allowable ranges for chemical, physical and biological parameters of discharge. Permits are issued on a five-year planning horizon and set discharge limits for WWTPs.

The contribution of nutrients (nitrogen and phosphorus) from WWTPs is a major water quality problem facing Frederick County streams and impacts the larger Chesapeake Bay watershed. Frederick County WWTPs discharge to main stem sections of the Monocacy River, Catoctin Creek and the Potomac River as well as their tributaries. The type of treatment required at each WWTP is determined by the ability of the receiving stream to assimilate effluent discharge and the overall impacts to the watershed. The County's major streams have limited ability to assimilate pollution due to low flow, seasonal variation in flow, and slow moving stream conditions.

Catoctin Creek has reached its maximum capacity of permitted pollutant loads from the existing WWTPs. Expansion of the WWTPs serving Middletown, Myersville, Fountaindale and Jefferson would require a corresponding reduction in nutrient effluent concentration. Existing

WWTP's in the Catoctin Creek watershed are located in the Middletown (two separate plants), Fountaindale, Myersville, and Jefferson.

The Monocacy River is close to reaching its nutrient load limitations. Upgrades to existing plants and diversion of flow from sub-regional plants to the Ballenger/McKinney WWTP where major BNR/ENR facilities are in progress to reduce overall nutrient loading. Smaller plants are also going offline as flow is diverted into the regional WWTPs, reducing pollution in smaller tributary streams. Emmitsburg, Fort Detrick, Frederick, Thurmont, Woodsboro, and Frederick County (Ballenger Creek/McKinney, Crestview, Libertytown, Mill Bottom, Monrovia, New Market, Pleasant Branch, and White Rock) operate treatment facilities that discharge either directly to the Monocacy River or its tributaries.

To take advantage of the higher degree of treatment at the Ballenger/McKinney WWTP the County has been closing smaller, sub-regional plants and diverting the flows to the Ballenger/McKinney plant. In addition to the Libertytown WWTP, which has just recently been closed and diverted to Ballenger/McKinney, four other plants at Monrovia, New Market, the County Landfill, and an Urbana High School plant are expected to be closed and their flows diverted.

As with drinking water supply, the Potomac River has emerged as the panacea for meeting future wastewater disposal needs in Frederick County. Two wastewater treatment plants currently discharge directly into the Potomac River (Brunswick and Point of Rocks) and both the Monocacy River and Catoctin Creek flow directly to the Potomac. The City of Frederick and Frederick County may utilize an outfall line to the Potomac River from the Ballenger/McKinney WWTP to handle the excess of treated effluent that cannot be assimilated by the Monocacy River.

Discharge permits for the Potomac River require the use of denitrification plants with filters. This requirement protects downstream water users and serves to protect the Chesapeake Bay. In the future, the majority of new or expanded wastewater treatment plants will need to employ filtration and nitrification/denitrification to meet strict discharge permits.

#### ***b. Frederick County's Ballenger/McKinney WWTP [From Frederick County WRE p.39]***

The County's Ballenger WWTP, expanded to a 6 mgd Biological Nutrient Removal (BNR) facility in 1995, is undergoing significant improvements and expansion to reduce effluent loads while meeting projected demand. The existing facility has a collection system that conveys raw sewage from a large service area to the WWTP and currently discharges directly into the Monocacy River. The current population served is estimated to be 19,900 people. The growth areas served are Adamstown, Ballenger Creek, Linganore, Holly Hills, Spring Ridge/Bartonsville,

Walkersville and Urbana. Two residential areas in Buckeystown are served by the system although the remainder of the community utilizes onsite septic systems.

The average daily flow through the Ballenger WWTP was 5.146 mgd in 2007. Remaining capacity was 0.854 mgd. This capacity could serve an additional 3,416 households at 250 gpd per household. Currently, the plant has a Total Nitrogen Load Cap of 73,093 lbs/year and a Total Phosphorus Load Cap of 5,482 lbs/year. A 1 mgd expansion to the plant is scheduled in 2008 to allow for a 7 mgd capacity while other improvements are occurring.

Future plans are to develop the adjacent McKinney WWTP (12 mgd capacity) south of Ballenger Creek and rename the facility the Ballenger/McKinney WWTP. The expansion will include an upgrade to Enhanced Nitrogen Removal (ENR) treatment requirements. ENR design began in 2006 and project completion is estimated by 2012. MDE has approved an average daily design flow of 18 mgd (6 mgd Ballenger, 12 mgd McKinney) and a combined nutrient loading allocation based on 18 mgd of 219,280 lbs/year total nitrogen (TN) and 16,446 lbs/year total phosphorus (TP). The treatment plant will only be permitted 15 mgd discharge to the Monocacy River; flow beyond 15 mgd could result in increased effluent loading beyond permitted amounts. The County plans to divert treated effluent beyond 15 mgd to a future Potomac River outfall, subject to the acquisition of permits.

Concurrently, the County is decommissioning several County-owned sub-regional WWTPs and diverting their flow to the Ballenger-McKinney WWTP. Since these smaller plants were not required to meet BNR or ENR treatment requirements, this diversion reduces effluent loading to the smaller streams. Recently, five small WWTPs have been decommissioned and diverted; they include Lake Linganore WWTP, Spring Ridge WWTP, Pinecliff WWTP, Buckingham Hills WWTP, and Libertytown WWTP. Four others are planned for decommissioning/diversion; they are Urbana High School WWTP, New Market WWTP, Monrovia WWTP, and Reich's Ford Road Landfill WWTP. Once complete, Ballenger/McKinney will serve three additional growth areas; they include the Town of New Market, Libertytown and Monrovia. The County's goal is to retain credit from the decommissioning projects to apply to Ballenger/McKinney where additional nutrient capacity will be needed within the next 20 years.

The decommissioning plants and the Ballenger-McKinney WWTP are all located within the Monocacy River watershed. The County's Division of Utilities and Solid Waste Management (DUSWM) anticipates that 20-year demand at Ballenger/McKinney will reach 24 mgd, which is 6 mgd above its design capacity. This is subject to approval by MDE.

*Limitations to future service:*

Middle Bush Creek Interceptor – decommissioning of New Market and Monrovia WWTPs is subject to completion of this project, which is completely developer funded; almost complete, right of ways secured.

***c. New Market/Monrovia Service Area [From Frederick County WRE p.43]***

The County maintains two wastewater treatment plants that serve this area; the Monrovia WWTP located on Bush Creek south of I-70 and the New Market WWTP located on Davis Branch north of I-70. Bush Creek flows directly into the Monocacy River near MD 355 and the Monocacy Battlefield. Davis Branch enters Bush Creek near MD 75. Both plants are planned for decommissioning once the Middle Bush Creek Interceptor project is completed; at that time, wastewater will be transported to the Ballenger-McKinney WWTP.

The New Market WWTP has a current capacity of 240,000 gpd. In 2007, average daily flow was 76,000 gpd. A maximum flow of 229,000 gpd occurred in April of 2007. The average flow per capita in New Market is estimated to be 47 gpcd, which indicates that infiltration and inflow are not excessive in the system. The Monrovia WWTP has a 200,000-gpd capacity and flow averaged 81,000 gpd in 2007. The Monrovia plant also experienced maximum flows in April 2007;

the flow was reported to be at 239,000 gpd. The effluent limits for the Monrovia WWTP are established by the discharge stream (like all other plants); in this case Bush Creek.

The existing New Market and Monrovia WWTPs are County-owned facilities, which provide wastewater treatment for properties within the Town of New Market as well as unincorporated areas outside of the Town. The capacity of the first phase of the Ballenger-McKinney WWTP, which is presently under construction, is 15 MGD (37.5 MGD Peak). This treatment plant's capacity and the decommissioning of the New Market and Monrovia WWTPs are well documented in the County's Water and Sewerage Plan. Please refer to page 4-15 in Chapter 4 of the Plan for more information on the County's Ballenger-McKinney WWTP and the systematic diversion of flows from minor WWTP that do not have advanced (ENR) treatment systems.

## **2. Sewer Demands Created by Projected Town Growth**

One dwelling unit is considered to produce 250 gallons of wastewater per day. Using the MDP estimate of 247 households in 2010 and assuming that all homes were connected to a public sewer system, usage would be 61,750 gallons per day (gpd). Build-out to a population of 4,500 or 1,700 dwelling units would increase that figure to 425,750 gpd. Assuming that the pipeline dwellings in Table 6 include the New Market subdivisions that are under construction (333 du), the proposed addition of slightly over 1,100 dwelling units within the Town and in the Smith/Cline annexation would represent roughly 2% of the available County wastewater capacity for EDUs at completion of the Ballenger/McKinney system.

The 315 acres of mixed commercial/industrial proposed for the Delaplaine, Ganley, and Demmitt properties at full build-out could add another 510,000 gpd (at .1 gpd per square foot of commercial/industrial space). This would represent approximately 4% of the currently available County wastewater capacity in the Ballenger/McKinney System.

The New Market and Monrovia WWTPs, which currently serve portions of the Town, will be decommissioned once the new Bush Creek Interceptor is completed. The elimination of these existing WWTPs and the diversion of their flow to the Ballenger-McKinney Enhanced Nutrient Removal (ENR) WWTP is discussed in detail in the Frederick County Water and Sewerage Plan. The Ballenger –McKinney WWTP is currently permitted for 15 MGD flow and has nutrient allocation for 18 MGD.

## **H. Stormwater and Non-Point Source Assessment**

Development, industry, transportation, and agriculture all increase non-point source pollution to the Chesapeake Bay and its tributaries. Although residential and commercial development can decrease nutrient and sediment delivery to adjacent surface water bodies, increased storm runoff has been linked with higher rates of stream bank erosion and delivery of toxins. Agriculture, especially corn and soybean row crops, has been linked with elevated nitrogen and phosphorus loads and deteriorated water quality.

This section of the WRE first provides an overview of New Market's Stormwater Management Program. Second, it presents an evaluation of the alternate land use plans (current, county-zoned, and build-out conditions) on impervious cover and non-point source loads to local Chesapeake Bay tributaries.

## **1. Stormwater Management Program**

The primary goal of the New Market stormwater management program is to reduce flooding, stream channel erosion, and sediment, nutrient, and toxin delivery to the Chesapeake Bay and its tributaries. The Town currently uses the County stormwater regulations and relies upon them for review and enforcement of stormwater plans. The Town intends to adopt the County regulations in the near future and assume responsibility for their enforcement.

In addition, the Town program will discourage structural Best Management Practice measures and will strongly favor nonstructural and Low Impact Development stormwater management measures. This approach is now suggested by the Maryland Department of the Environment in their model stormwater management ordinance.

The Stormwater Management Act of 2007 is based upon Environmental Site Design (ESD) Principles which attempt to mimic natural hydrology on developed sites. As the Town prepares to assume stormwater regulation enforcement, it will incorporate the core principles of Environmental Site Design, which are:

- Increase onsite runoff reduction volumes
- Require a unified early ESD map
- Establish nutrient-based stormwater loading criteria
- Apply ESD technique to redevelopment
- Integrate ESD and stormwater together at construction sites
- Provide adequate financing to implement the Act and reward early adopters
- Develop an ESD ordinance that changes local codes and culture
- Strengthen design standards for ESD and stormwater practices
- Ensure all ESD practices can be adequately maintained
- Devise an enforceable design process for ESD
- Establish turbidity standards for construction sites
- Craft special criteria for sensitive and impaired waters of the state
- Implement ESD training, certification and enforcement

## **2. Non-Point Source Assessment**

Non-point source (NPS) pollution comes from many diffuse sources, including excess fertilizers and pesticides from agriculture and development, oil, grease, and toxins from development, sediment from improperly managed construction sites, crop and forest lands, and eroding stream banks, and bacteria and nutrients from livestock, pet wastes, and septic systems. The NPS pollution is delivered to lakes, rivers, wetlands and coastal waters by groundwater discharge



and surface water runoff. Excess loading rates have been linked with harmful effects on drinking water supplies, recreation, fisheries, and wildlife. In particular, elevated plant nutrient loads, including total nitrogen (TN) and phosphorus (TP) cause excessive algal blooms, which ultimately can cause a reduction in dissolved oxygen concentrations. Survival of open water fish and shellfish requires dissolved oxygen concentrations consistently above 3.2 mg/L (MDE 2006b).

To determine how growth trends and land cover/land use will affect nutrient loadings to the Monocacy River, we used the Maryland Department of Planning's Nutrient Assessment Spreadsheet. Total nutrient loads were generated for current conditions and future growth scenarios by multiplying loading coefficients and acreages specific to different land cover classes. Within a land cover class, different loading coefficients are applied for pervious and impervious surfaces. Loading coefficients were provided by the Maryland Department of Planning.

**Impervious Surface Cover:** Impervious surface cover, including rooftops and pavement, prevents rainwater from infiltrating the ground and adversely affects stream habitat and water quality by increasing peak storm flow, reducing base flow conditions, and increasing toxins loads from industry and automobiles (e.g., salts, heavy metals, and volatile organic chemical compounds). Stream biotic integrity and water quality generally decline when more than ten percent of a watershed is developed. For the New Market region, impervious surface cover was determined according to the proportion of impervious area associated with different land use/land cover classes (Maryland Department of Planning 2009).

**Table 23. Developed Area (Acres in the New Market Area Estimated From the 2002 MD LULC Data**

Land Cover Scenario	Current	Buildout	% Change
Current Town Boundary	150	330	+180
County Growth Area	512	1,331	+819
Town Growth Area	512	1,757	1,245

**Nutrient Pollution:** Nitrogen loading rates (lbs/yr) estimated for the three growth scenarios are shown in Table 24.

**Table 24. Nitrogen Loading Rates**

Land Cover Scenario	Current	Build-out	% Change
Current Town Boundary	2,048	3,363	+1,315
County Growth Area	4,892	10,522	+5,630
Town Growth Area	4,892	13,509	+8,616



Phosphorus loading rates (lbs/yr) estimated for the three growth scenarios are shown in Table 25.

**Table 25. Phosphorus Loading Rates**

Land Cover Scenario	Current	Build-out	% Change
<b>Current Town Boundary</b>	193	313	+120
<b>County Growth Area</b>	441	915	+474
<b>Town Growth Area</b>	441	1,174	+733

The Monocacy River is an impaired stream and Total Maximum Daily Loads (TMDLs) have been issued by the Maryland Department of the Environment (MDE) for fecal coliform bacteria in the upper and lower reaches of its watershed. Other Draft TMDL's are under review/comment for biological impairment (fish and stream insects), nutrients, and sediment. Given the changing status of the Ballenger/McKinney WWTP and the lack of nutrient and sediment TMDL's for the Monocacy, there is insufficient information available at this time to determine the suitability of the River as "receiving waters." In any case, the Town will make every effort to offset any additional impacts to the Monocacy through sound land use planning, site plan review, stormwater management, and local water quality improvements.

## I. Water Resources Goals and Objectives

The Water Resources goal for New Market is:

To maintain a safe and adequate water supply and adequate capacities for wastewater treatment to serve projected growth; to take steps to protect and restore water quality; and to meet water quality regulatory requirements in the Monocacy River watershed.

Objectives to support this goal are:

Assure that existing and planned public water systems meet projected demand.

Assure that existing and planned public wastewater collection and treatment systems meet projected demand without exceeding their permitted capacity.

Assure that the Town's stormwater management policies reflect the most recent state requirements, and encourage Low Impact Development practices in both new development and by existing homeowners.

Maintain land use patterns that limit adverse impacts on water quality.

Continue to focus growth to areas best suited to utilize the existing and planned water and wastewater infrastructure efficiently.

## J. Water Resource Strategies and Recommendations

Beyond establishing a land use planning framework that is supportive of water quality protection efforts, the Town can also initiate measures that further support sound management of stormwater flows to improve water quality. These include:

Promoting bio-retention as a means of treating stormwater runoff. Bio-retention, such as a rain garden, provides stormwater treatment that enhances the quality of downstream water bodies by using soil and both woody and herbaceous plants to remove pollutants from stormwater runoff.

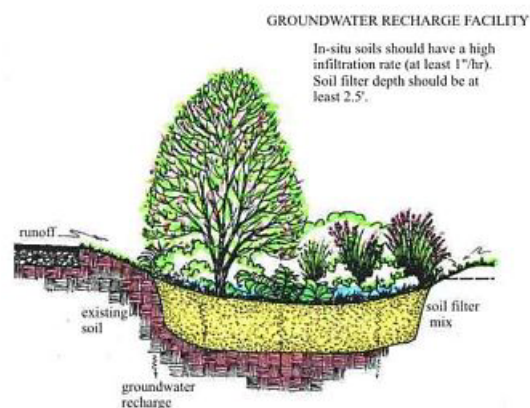
Consider the implementation of a lot coverage limit on all new development.

Encourage water quality improvements for existing development through stormwater management techniques such as rain barrels, rain gardens, and native planting plans.

Rain gardens (see Figure 1) are vegetated surface depressions, often located at low points in landscapes, designed to receive stormwater runoff from roads, roofs, and parking areas. The gardens' sandy soils allow stormwater to infiltrate quickly to the native soils below and eventually contribute to groundwater recharge. Pollutants and nutrients in stormwater runoff are removed by rain garden vegetation and soils through biological and physical processes such as plant uptake and sorption to soil particles. In comparison with stormwater release to receiving waters through conventional storm drain systems; infiltrating stormwater through rain gardens reduces peak flows and stressor loadings.

Utilize Low Impact Development (LID) stormwater management techniques and devices in new developments to minimize flows and attenuate impacts near their source. These include: Bioretention or vegetated depressions that collect runoff and facilitate its infiltration into the ground. These include rain gardens as discussed above. (See Figure 2)

**Figure 2. Bioretention Area**

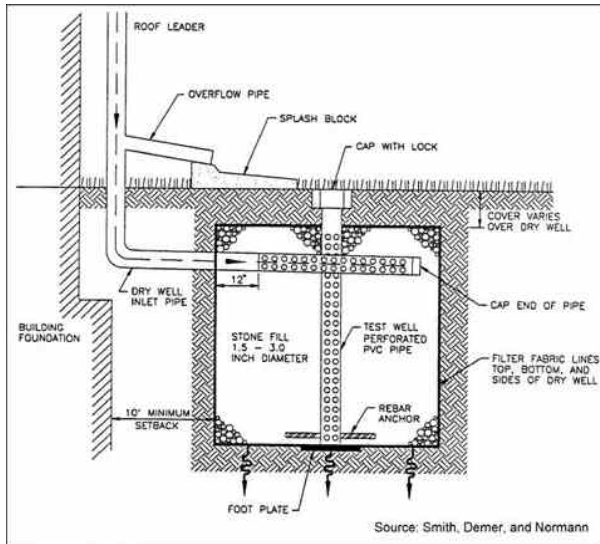


Source: Prince Georges County DER

**Infiltration Trenches:** Trenches filled with porous media such as bioretention material, sand, or aggregate that collect runoff and infiltrate it into the ground.

**Dry Wells:** Gravel- or stone-filled pits that are located to catch water from roof downspouts or paved areas.

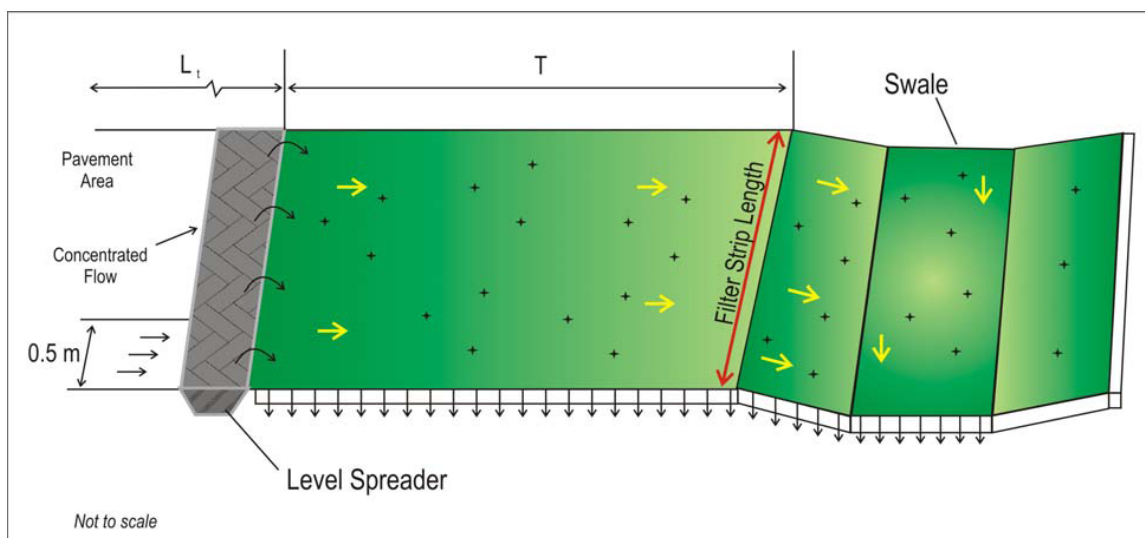
**Figure 3. Dry Well Schematic**



Source: *Stormwater Management for Maine*, 1995.

**Filter Strips:** Bands of dense vegetation planted immediately downstream of a runoff source designed to filter runoff before entering a receiving structure or water body.

**Figure 4. Filter Strip**

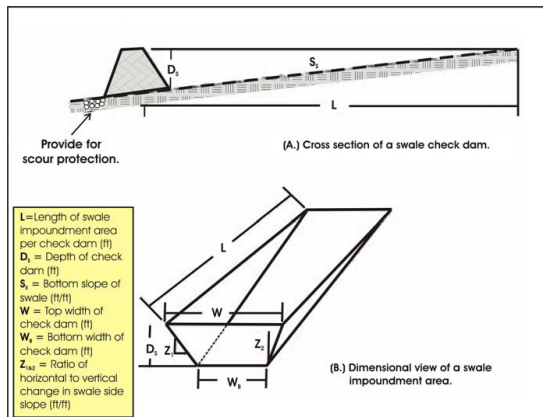


Source: *Low Impact Design Manual*, US Army Corps of Engineers, 2004

**Inlet Pollution Removal Devices:** Small stormwater treatment systems that are installed below grade at the edge of paved areas and trap or filter pollutants in runoff before it enters the storm drain.

**Grassed Swales:** Shallow channels lined with grass and used to convey and store runoff.

**Figure 5. Grassed Swale Schematic**



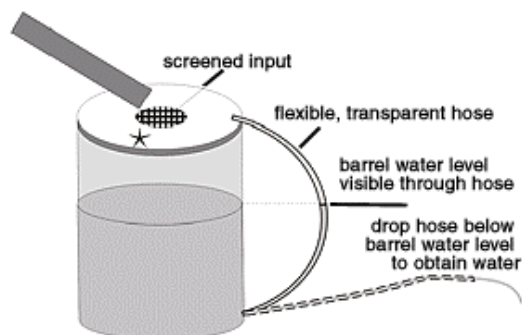
Source: NVPDC, 1991. In EPA, 1999d.

**Permeable Pavement:** Asphalt or concrete rendered porous by the aggregate structure.

**Permeable Pavers:** Manufactured paving stones containing spaces where water can penetrate into the porous media placed underneath.

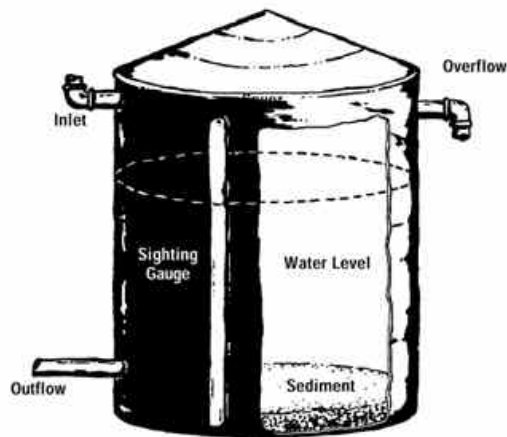
**Rain Barrels and Cisterns:** Containers of various sizes that store the runoff delivered through building downspouts. Rain barrels are generally smaller structures, located above ground. Cisterns are larger, are often buried underground, and may be connected to the building's plumbing or irrigation system. Rain barrels and cisterns are low-cost water conservation devices that reduce runoff volume and, for very small storm events, delay and reduce the peak runoff flow rates. Both rain barrels and cisterns can provide a source of chemically untreated 'soft water' for gardens and compost, free of most sediment and dissolved salts.

**Figure 6. Rain Barrel**



Source: Maryland DNR Green Building Program.

**Figure 7. Cistern**

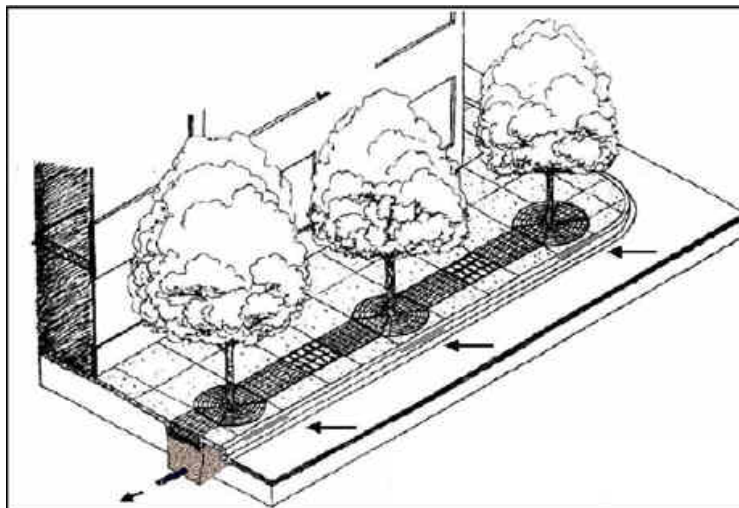


Source: Texas Guide to Rainwater Harvesting.

**Soil amendments:** Minerals and organic material added to soil to increase its capacity for absorbing moisture and sustaining vegetation.

**Tree Box Filters:** Curbside containers placed below grade, covered with a grate, filled with filter media and planted with a tree in the center.

**Figure 8. Manufactured Tree Box Filter**



Source: Virginia DCR Stormwater Management Program.

**Vegetated Buffers:** Natural or man-made vegetated areas adjacent to a water body, providing erosion control, filtering capability, and habitat.

## VIII. PROTECTION OF SENSITIVE AREAS IN AND NEAR NEW MARKET

"Sensitive Areas" are defined in Article 66B, §1.00(j), to include (i) streams, wetlands, and their buffers; (ii) 100-year flood plains; (iii) habitats of threatened and endangered species; (iv) steep slopes; (v) agricultural and forest lands intended for resource protection or conservation; and (vi) other areas in need of special protection, as determined in the plan. Sensitive areas that could be impacted by development planned within the proposed municipal growth area are required to be addressed under §3.05(a)(4)(x)(9). This municipal growth area element requirement overlaps the broader element of the plan found in §3.05(a)(4)(ix), requiring that the plan include "a sensitive area element that contains goals, objectives, principles, policies, and standards designed to protect sensitive areas from the adverse effects of development." The sensitive area element of the plan is subject to review by the Department of the Environment and the Department of Natural Resources under §3.05(a)(4)(ix)(2). Although the statute requires "consideration of...protection of sensitive areas...that could be impacted by development planned within the proposed municipal growth element," there is no requirement that the plan include a catalog of particular sensitive areas. Instead, Article 66B contemplates that the plan give consideration to the protection of sensitive areas be encountered in development. The Plan addresses such protection by identifying protection techniques.

### A. Overview

Frederick County provides a good overview of sensitive areas in the County in their 2010 Comprehensive Plan. The following material is adapted from that Plan.

#### 1. Streams And Their Buffers

Streams are grouped into a hierarchal system first order, second order, third order, etc. from the smallest headwater stream to the Monocacy and Potomac Rivers in Frederick County. Streams and their buffers perform a wide variety of functions and have numerous environmental benefits. The buffer or riparian area of a stream is part of the stream ecosystem whose boundaries often depends on conditions of slope, soil, ground cover, and hydrology. The buffer encompasses parts of the stream ecosystem that are often dry, yet are integral to the stream's health. Stream buffers include:

- Floodplains where most stream wetlands are located and where energy dissipation, natural filtration, floodwater storage occur.
- Stream banks and adjoining steep slopes that help to prevent erosion from clogging the streambed and provide plant and animal habitat.
- Streamside forests, which provide habitat, stabilize banks, provide shading, control temperatures, filter pollutants and produce leaf-litter, which supports a variety of aquatic organisms.

## **2. Stream Use Designations**

The Clean Water Act requires states to develop water quality standards to protect and improve surface waters. These standards are based on a particular water body use, function, goal or "designated use," such as supporting trout populations or protecting public water supplies. Criteria to support these designated uses include specific limits or amounts of dissolved oxygen, bacteria, temperatures, tonics, and turbidity (clarity) in the particular stream. The State of Maryland has defined designated uses of surface waters.

## **3. 100-Year Floodplain**

The 100-year floodplain is the portion of the landscape adjacent to streams and rivers that is subject to inundation by a flood event having a 1% chance of occurring in any year. Floodplains are generally comprised of rich alluvial soils formed by many years of deposition of soil, gravel, sand, rock, leaves, twigs, animal, and other plant materials caused by the continual ebb and flow of water in and out of the stream or river channel.

Floodplains are a natural part of the aquatic environment and contained diverse ecosystems. A key function of floodplains is to hold excess water and allow a slow release into groundwater and back to the waterway. Streams and rivers carry higher suspended sediment during flood events; the floodplain acts as a sink, trapping and settling these particles. The soil microbial community is active in floodplains, processing and cycling nutrients. Unique plants that can tolerate episodic high water are present in floodplains along with a variety of animal species that contribute to high biodiversity.

## **4. Habitat Of Endangered And Threatened Species**

Frederick County's diverse landscape supports high biodiversity, the variety of plant species, animal species and all other organisms found in a particular environment. The protection of habitats that are critical to maintaining biodiversity contributes to the protection of rare threatened and endangered plant and animal species.

The Maryland Department of Natural Resources — Natural Heritage Program - has identified 26 animal species and 74 plant species in Frederick County in their current inventory of Rare, Threatened, and Endangered Species. Of these, nine animal species and thirty-five plant species have been determined to be endangered statewide. Two of these endangered species, the Yellow Lance (a freshwater mussel), *Elliptio lanceolata* and Torrey's Mountain-Mint, *Pycnanthemum torrei*, are cited as globally rare. Seven plant species are identified by the state as extirpated. The species "was once a viable component of the flora or fauna of the State of Maryland, but for which no naturally occurring populations are known to exist in the state." The Maryland Department of Natural Resources' Fisheries Division also maintains an official list of game and commercial fish species that are designated as threatened or endangered in Maryland.

These rare species serve as bellwethers for the health of the ecosystem that we rely on and share with them. Many of these species serve us directly. They may have medicinal applications or utility for research and education, or cultural significance. The challenge in Frederick County and all of Maryland is how to balance population growth and land development with our responsibility to protect Frederick County's array of unique habitats and species.



The primary state law that governs endangered species is the Nongame and Endangered Species Conservation Act (NESCA), which contains the official State Threatened and Endangered Species list.

The NESCA reads:

- It is the policy of the State to conserve species of wildlife for human enjoyment, for scientific purposes, and to insure their perpetuation as viable components of their ecosystems.
- Species of wildlife and plants normally occurring within the State which may be found to be threatened or endangered within the State should be accorded the protection necessary to maintain and enhance their numbers.

The Natural Heritage Program (NHP) is the lead state agency responsible for the identification, ranking, protection and management of nongame, rare and endangered species and their habitats in Maryland. Data collected by NHP provide the scientific foundation for the Threatened and Endangered Species lists mandated by the Act. NHP researchers conduct inventory and monitoring activities on nongame wildlife, rare species populations and natural communities, documenting trends in population and habitat health and viability. Information gathered through this research guides land management decisions and regulations designed to protect and conserve the state's biological diversity.

No exact locations are provided for any of the listed rare, threatened and endangered species (as a means of protecting the listed species), although GIS data depicting generalized habitat/species locations is provided by the Maryland Department of Natural Resources for land use planning and development review purposes.

## **5. Steep Slopes**

Steep slopes are defined as having an incline of 25% or greater. Protecting the natural terrain and vegetative features present on steep slopes prevents flooding, stream siltation, and the alteration of natural drainage patterns. Preserving steep slopes protects the natural environment, manmade structures, and the safety of all citizens. Steep slope protection also provides aesthetically attractive open space/view sheds and maintains local biodiversity found on many of these slopes. Preservation of steep slopes adjacent to watercourses is especially important because of the impact to water quality and in-stream aquatic habitat from soil erosion and sedimentation when slopes are graded, cleared or disturbed. Historically, many of these steeply sloped areas have not been disturbed, as they are very difficult to farm, graze, log or develop.

Frederick County's distinct landform regions, called Physiographic Provinces, can be used to describe the County's overall topography. The Blue Ridge Physiographic Province includes Catoctin Mountain at the eastern boundary and South Mountain at the western boundary. These mountain ranges contain the largest concentration of steep and moderate slopes in the County.



The Piedmont Plateau Province includes all lands in Frederick County east of the Catoctin Mountain range and is typified by rolling terrain and low ridges. Steep and moderate slopes exist along many streams in the Piedmont in Frederick County. Steep slopes are evident along Bush Creek, Linganore Creek and its tributaries south of MD 26. Numerous steep ridges and bluffs are also present adjacent to the Monocacy River as well as Catoctin Creek. In addition to the mountain ranges, Frederick County has a Monadnock (a mountain or rocky mass that has resisted erosion and stands isolated in a plain): Sugarloaf Mountain. It rises 800 feet above the Piedmont Plateau Province to an elevation of 1,282 feet.

## **6. Forest Lands**

Approximately 35% (151,000 acres) of Frederick County, as of 2000, is covered by forestland. The forests provide countless benefits to including: air quality, water quality, scenic beauty, wood products, wildlife habitat, recreation, flood control, and erosion control. According to the Maryland Department of Natural Resources Forest Service, the predominant forest cover type in Frederick County is the Oak-Hickory complex (oaks, hickories, red maple, beech, tulip poplar, white ash) occupying about 71% of the forestland base. Other forest cover types found in the County include the Northern Floodplain (14%): elm, black walnut, ash, sycamore, willow; Northern Hardwood (5%): sugar maple, beech, hemlock, basswoods, white ash, red oak and others such as pine plantations and early succession forests (10%).

Presently, the major forested areas of the County lie in the mountain areas, including Catoctin Mountain, South Mountain, and Sugarloaf Mountain and its immediate vicinity. The forest cover in the eastern county area, however, is much more fragmented, interspersed with large agricultural fields or residential development. Some forestland is also present in the Monocacy River and Potomac River riparian areas. Approximately 18% of the forestland in the County is publicly owned; the remainder is privately held with the potential for some commercial timbering and harvesting.

## **7. Wetlands**

Wetlands are a unique type of ecosystem and are also referred to as marshes, swamps and bogs. They are generally identified based on the degree of flooding, the existence of unique plant communities, and by special soil characteristics. Wetlands may be permanently flooded by shallow water, permanently saturated by groundwater, or periodically inundated for periods during the wet season.

Frederick County has inland wetlands, as opposed to coastal or tidal wetlands. Inland wetlands are most common within floodplains along rivers and streams (riparian wetlands), in isolated depressions surrounded by dry land, along the margins of lakes and ponds, and in other low-lying areas where the groundwater depth is shallow. Based on data from the Maryland DNR, Frederick County is estimated to have approximately 9,300 acres of wetlands.

The benefits of wetlands are described below:

- **Plant and Animal Habitat** — Many species of birds, mammals, reptiles, and amphibians rely on wetlands for breeding, food supply, cover, wintering and stopover during migration. They create numerous microenvironments for wildlife.

Wetlands also provide unique habitat for many rare and endangered plants and animals.

- **Water Quality** — Wetlands play a less conspicuous but essential role in maintaining high environmental quality, especially in aquatic habitats. They do this in a number of ways, including purifying natural waters by removing nutrients, chemical and organic pollutants, and sediments, and by producing food that supports aquatic life.
- **Flood Control** — The more tangible benefits of wetlands include flood and storm water protection, erosion control, and water supply and groundwater recharge, harvest of natural products, livestock grazing and recreation.

## **B. Protection Measures**

Maps 8, 9 and 10 identify the steep slopes, forest cover, floodplains, wetlands and streams in the growth area. In the course of development application process, sensitive areas are protected from disturbance through a variety of existing regulatory controls, which are implemented in site plan subdivision plat review, as part of the established development approval process. Whether a particular sensitive area may be impacted, and what mitigation techniques are to be applied, are fact-specific inquiries which will depend upon the location and characteristics of the specific development proposed, and may properly be considered on a case-by-case basis. Protection of sensitive areas from proposed development is responsive to the development proposed. The Planning Commission of the Town has extensive authority in implementing the general policies and objectives of the Plan through appropriate application of existing regulatory mechanisms.

### **1. The Town shall protect its Historic District from the detrimental effects of development.**

The Historic District of New Market is the base upon which the town's economy and quality of life reside. It is the most "sensitive area" of New Market. This Plan began with a description of its growth and character. It is hoped that this emphasis on the Historical District as the historic, economic, and cultural base of the town will impress upon Town officials, County officials, State officials, and representatives of the development community the importance of future development enhancing, rather than diminishing, the District's character and importance.

### **2. The Town shall protect its natural water supply, and encourage stewardship of the Chesapeake Bay and its tributary lands.**

The Town shall take every step to ensure the quality of its groundwater and surface water sources and implement wellhead protection measures when possible. The Town will also institute policies and programs to protect and enhance recreational linkages and natural stream areas.

### **3. The Town will continue zoning practices which protect and enhance the environment.**

These practices shall:

- Encourage sound management and protection of groundwater and surface water resources and their quality.
- Promote diligent, efficient use of water resources and discourage wasteful practices.
- Preserve or enhance aesthetic qualities of natural drainage courses in their natural or improved state compatible with flood control measures, economic, environmental, and ecological factors.
- Direct development activity away from 100-year historic and annual floodplain areas to minimize health and safety hazards, property loss, and environmental disruption, and to foster stream enhancement, improved water quality, and recreational opportunities.
- Prevent construction of large contiguous paved areas unless adequate measures are ensured to reduce runoff.
- Encourage disposal of storm and domestic runoff on the development site, rather than directing it to draining courses.
- Discourage urban uses and limiting development in designated aquifer recharge areas.
- Require areas chosen for expansion to apply a groundwater use plan as part of their site plan application.
- Ensure that environmental impacts receive equal consideration along with economic and engineering factors as a part of the review process. Included in this should be an evaluation of transportation and air quality effects of major employment generating projects in determining these impacts.

### **4. The Town will consider the following additional land use designations to thoroughly address open space issues:**

The Town will examine an Open Space Reserve category, which will be intended to protect land with potential recreational value. Its location and extent depend on the presence of scenic, aesthetic, wildlife or other resources, which require special protection and may have potential recreational value. It is intended to remain agricultural. Recreational uses must be compatible with adjoining agricultural uses.

The Town shall develop a package of incentives and encourage the following uses of open space in its Growth Area: additional active parkland, development of designated parkland, increased historic preservation, additional natural open space, preservation of trees and other vegetation, and preservation of natural drainage and aquifer recharge areas.

These designations can usefully apply to lands (sensitive areas, conservation easements, and open space) within and surrounding the perimeter of the Growth Area that are meant to retain rural character and remain undeveloped. These areas form a rural greenbelt around New Market and can function as a growth boundary. By directing regional growth into the Town and designated locations within the Growth Area, it is proposed that these conservation areas constitute permanent buffers in the landscape.

Property owners in land conservation areas can be compensated in a number of ways. They are encouraged to participate in a transfer of development rights, which would allow them to sell and move development rights from their property for use in areas designated for growth. Property owners in designated growth areas may be required to use development rights transferred from within the Growth Area to achieve the densities necessary for successful development. Property owners could also enter into contractual arrangements or Developer's Rights and Responsibilities Agreements, which would cluster development on a single property but share development returns among several owners. Other arrangements for concentrating development are possible and New Market looks to the creativity of its citizens and neighbors to bring this objective to fruition.

Owners in land conservation areas will also be urged to participate in any of the various land conservation programs available such as the Maryland Agricultural Land Preservation Foundation (MALPF) farm easement purchase program and the conservation easement programs offered by the Maryland Environmental Trust (MET) and the Maryland Historic Trust (MHT). The MALPF allow rural property owners to derive equity from their lands without actually developing them in return for placing easements on the property which prohibit or limit its future development. The MET and MHT conservation easement programs provide tax credits and estate planning benefits to property owners who voluntarily place their lands under easements prohibiting or limiting future development.

#### **5. The Town has adopted and will maintain standards for development on or near wetlands and floodplains, so as to protect these critical resources.**

No development shall be allowed within a 100-year flood plain, historic or annual, and there shall be a 25-foot building setback in areas adjacent to these floodplains

Consideration shall be given to modifying the zoning ordinance to attach special conditions for properties located in an area outside the 100-year floodplain but still subject to flooding to reduce the risks of property damage or injury. These conditions could include underground storm drainage systems capable of handling run-off from a 100-year storm, limits on the amount of pavement and other impermeable surfaces, and drainage fees to help pay for downstream improvements needed as a result of development

#### **6. The Town will take action to improve environmental awareness and monitoring.**

New Market will establish a Conservation Committee whose primary function will be to advise the Planning and Zoning Commission. Its secondary functions will be to:

- review all construction applications to assure that conservation design guidelines are followed;

- encourage good soil conservation practices and examine impacts of proposed development relating to this as a routine part of the improvement plan evaluation;
- act as liaison with federal, state, and local officials to promote policies beneficial to conservation of natural resources, vegetation, and wildlife, see that all regulations are properly administered and enforced, similar to the function performed by the Historic District Commission;
- coordinate to achieve adequate water supply quality and protection;
- oversee recycling efforts to ensure residents understanding of and compliance with new Town and County regulations; and
- arrange to have the Town engineer monitor construction sites to see that conservation measures are being maintained as agreed upon.

## **IX. FINANCING OF INFRASTRUCTURE EXPANSION**

### **A. Guiding Standards**

The New Market Planning Area will accept a certain amount of residential growth and commercial and job creating uses in locations and patterns that enhance overall community character and sustainability.

Future planned growth in whatever quantity will be constrained to as small a “footprint” on the land as possible to limit environmental impacts and infrastructure requirements.

Development will be required to help repair past environmental damage as well as improve current environmental functions.

Development will be required to offset initial infrastructure costs and provide them in a manner that creates continuing and substantial revenues for the public.

In return for a possible increase in development costs, developers will receive such benefits as a better mix of uses or greater density on selected sites, a simple approval process for complying proposals, ability to market themselves as part of an enhanced New Market community with a higher quality of life, greater amenities, and less congestion.

The Town and County will work with the private sector and the State to plan, fund, and construct the community facilities, infrastructure, and transportation improvements necessary to correct existing inadequacies within the community and to facilitate development in New Market Planning Area as a designated growth center within the County.

New development will pay its fair-share of the costs associated with community facilities, infrastructure, and transportation needs where demand is generated by the new development. Current residents, businesses, and property owners will not be required to fund capital improvement costs for community facilities, infrastructure, and transportation improvements necessitated by demands solely generated by new development.

No new development will be approved within the Planning Area unless it can be determined that adequate public facilities and infrastructure are in place or are planned and funded for construction within a reasonable time period in conjunction with the proposed development.

The timing and phasing of community facilities, infrastructure, and transportation improvements requiring public investment will occur over time in conjunction with coordinated Town and County Capital Improvement Programs and priorities for Town annexation. Improvements recommended for areas within the Town and proposed annexation areas should receive the highest public-sector funding priority.

## **B. Financing Responsibilities**

### **1. Financing Generally**

The Town's operating revenues in FY'10 were \$399,000. The Town's main sources of revenue were Real Property Taxes (\$127,000 or 32%), Income Tax (\$114,000 or 28%), Admissions and Amusement Taxes (\$68,000 or 17%) and Personal Property and other Business Taxes (\$30,763 or 8%) and Construction Permitting and other Development Fees (\$29,000 or 7%). The Town's SHUR fees were cut \$29,000 or 7% of total revenue. County Tax Equity was \$12,000. However, the previous Board of County Commissioners had threatened to unilaterally withhold this funding.

The Town's operating expenses for FY' 10 were \$286,000. The Town's main expenses were Public Works (\$123,000 or 43%), Salaries, Financial, and Legal Administration (\$90,000 or 31%), and Public Safety (\$18,000 or 5%).

The Town's Operating Budget is a cash budget. It does not account for amortization of capital expenses such as road, building, storm drainage, and other capital items. For this reason, the annual budget report contains a discussion of these items pursuant to an in-house fiscal impact of current development and infrastructure. The economic life of each item is estimated and broken into its annual amortization cost. For FY' 10 this amount was estimated at \$47,000. Thus, the Town endeavors to ensure that its Unappropriated reserve is always set above this amount. This ensures that as long-term capital items come due for replacement, the money is ready and available for funding. The Town's CIP for FY' 11 was \$829,000. The General Fund provided \$670,000, grants provided \$30,000 and loans \$129,000. The Town's actual Unappropriated Reserve for FY' 10 was \$113,000. It is anticipated that loan funding in the CIP will not be needed should the Town continue to out perform its budget by \$66,000 annually.

### **2. Water Line Construction Financing**

During FY '08 and FY '09 the Town completed two major waterline projects with the County. The total cost of these projects was \$1.8 million. The Town funded \$900,000 from its General Fund and \$900,000 from developer Community Enhancement contributions. This demonstrates the importance of how developer contributions can be used the update facilities that are inadequate attributable to legacy issues.

### **3. Future Non-Development Infrastructure Cost**

#### **a. Streetscape**

Streetscape is a \$4 million dollar drainage, sidewalk repair, landscaping, and Main St. repaving project. In exchange for these improvements, the Town must agree to take ownership of Main St. and its maintenance. This could add as much as \$50,000 to annual amortization cost.

The sidewalks in the Historic District are in poor condition. Many areas are likely impassable for those in wheelchairs and a tripping hazard for those who are not. The Town could not do this project without SHA funding. The alternative would be to adopt an ordinance placing sidewalk repair and maintenance upon adjacent property owners.

The Town must expand and diversify its tax base in order to find a permanent solution to this legacy inadequacy issue.

#### **4. New Development Financing**

##### **a. APFO Mitigation Funding vs. Municipal Annexation Funding**

The Town will use municipal annexation agreements and Developer's Right's and Responsibilities Agreements to both finance and achieve concurrency of infrastructure and public facilities with development. The Town prefers these tools for the purpose of financing infrastructure and achieving concurrency for the following reasons.

Adequate Public Facilities Ordinances do not efficiently take into consideration legacy issues. These legacy issues create a complex set of equations that APFO alone cannot solve. APFOs often resemble moratoria. They therefore do not always achieve their intended purposes of achieving concurrency of development and public facilities as well as providing affordable housing.<sup>6</sup> As APFOs restrict available land where the highest and best use is for housing, the price of housing increases. As development patterns generally occur in concentric rings from previously developed areas, APFO restrictions push market demand to someone else's community or rural areas without solving the larger public facilities problem.<sup>7</sup>

APFOs have other weaknesses. Impact fees derived from the construction of new homes are collected after the development passes an APFO test. These fees can only keep you current; they cannot solve the legacy shortcomings. Furthermore, Judge Cathell in *Steel vs. Cape* observed that the County cannot disproportionately place the burden of adequate public schools upon the developer. Also of concern is the questionable validity of APFO waiver payments.<sup>8</sup> In *Halle Development Co. vs. Anne Arundel County* the Court intimated that these fees not only resembled illegal taxes but questioned the impropriety of allowing developers to buy land use accommodations. Essentially, those with money can buy extraordinary land use accommodations while those who cannot must wait.<sup>9</sup>

There are other concurrency tools that should be considered. They include, but are not limited to, municipal annexation agreements, DRRA's, WSAA's and Joint Planning Agreements. These tools may be more appropriate for "underbounded" jurisdictions like New Market. We have very little undeveloped land to which to apply an APFO. Annexation presents an opportunity to create a contractual relationship with a municipality premised on crossing the annexation threshold. Municipal annexation agreements provide concurrency by contract. They have several advantages over concurrency by regulation or APFO. First, they are judicially proven such as in *Mayor & Council of Rockville vs. Rylyns*. Secondly, they are flexible and thus not "one size fits all" as is the Frederick County-imposed APFO.<sup>10</sup> Third, they allow for payment in advance for public facilities. These payments are financed through the 30-year mortgage market at the

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<sup>6</sup> William C. Wantz, Esq., "A Comparison of Adequate Public Facilities Ordinances with Other Infrastructure Concurrency Techniques in Municipal Annexation", December 2003, p. 2

<sup>7</sup> *Ibid.*, pp. 3-7.

<sup>8</sup> *Ibid.*, pp. 8-9.

<sup>9</sup> *Ibid.*, pp. 13-14.

<sup>10</sup> *Ibid.*, pp. 14-15.



prevailing rate of interest. Thus local government “piggy backs” on the mortgage industry. Lastly, municipal annexation agreements are binding upon the developer and its successors.

The County controls our utilities through a WSAA. Clearly, as recognized by Commissioner Gardner in her “Open Letter to The Residents of New Market”, no development can occur without utilities.<sup>11</sup>

The Town recognizes that concurrency can only be reached incrementally as we overcome legacy issues. Only then can we provide a model to achieve the goals of Smart Growth, concurrency of public facilities, and affordable housing.

Using the identified concurrency tools, we can create a model that uses the County APFO to drive development to currently developed areas such as municipalities. The municipalities then can negotiate an annexation agreement with the developer that arranges for the provision of funds for needed public facilities. Since the current WSAA only allows extension of services to New Market to serve an annexed property after the annexation is final, the annexation agreement must meet the approval of the County BOCC before services may be extended. Finally, no construction phasing can be set, nor any development occur, until after the annexation is final, the WSAA amended, and a phasing schedule set in a DRRA executed with the WSAA amendment.

Memorializing this model in a Joint Planning Agreement ensures that the County and municipalities will work cooperatively, not competitively. By using such an agreement, the County cannot develop property contiguous to the municipality without annexation, but neither can the municipality develop the property without satisfying the County. This model offers a collaborative method of accomplishing our mutual goals that minimizes the need for acrimony.

### ***b. Countywide School Construction Mitigation Fee***

The recitals to this Plan cite the new Frederick Board of County Commissioner's desire to enter a Joint Planning Agreement with the Town. The County has asked the Town to consider a uniform countywide school construction fee. This proposes to provide for additional developer funding above and beyond the current impact fee for any school or combination of schools that do not pass the County APFO. This funding could provide for 115% of the actual per dwelling student impact. The Town is willing to investigate adopting this fee as part of a Joint Annexation Agreement. The Town would not adopt an APFO for the reasons stated above. However, it would consider setting a reasonable threshold for school capacity. The Town would then have a tool that is stronger than an APFO and it would have a concurrency agreement with the County that is a legally binding contract.

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<sup>11</sup> Commissioners Gray, Thompson, Gardner and Hagan, “Open Letter to the Residents of New Market”, December 13, 2006, p. 2.

## **X. RELATIONSHIP OF NEW MARKET'S LONG-TERM DEVELOPMENT POLICY TO THE VISION OF ITS FUTURE CHARACTER**

### **A. New Market's Current and Future Character**

To assure new construction is consistent with adopted growth policies, and expansion of development is balanced, the Master Plan shall be evaluated every five years.

Areas chosen for annexation/development shall be subject to public facilities concurrency and have an adequate level of school facilities; fire, rescue, and police protection; water and sewer facilities; transportation support; recreational opportunities; and other public facilities as identified. Future development will be on community water and sewer, designed with the capability of replacing existing well systems in the Town if the need arises.

New Market has long had a reputation for its high standards of architectural style and authenticity in its Historic District; this same attention to detail shall be applied uniformly to future annexed areas as well through the use of architectural guidelines. New development shall not adversely affect the character of existing areas.

Implementing the Plan's land use concept will require a new approach to assembling, designing, and evaluating development proposals. First, a mechanism to move development among the Annexation Area properties should be an integral part of the Town's zoning and subdivision regulations. If concentrated development, sensitive area protection, and rural preservation are to be achieved, some properties will have development, others will not. But all property owners must be able to benefit from the development potential created and this requires a creative regulatory mechanism.

Second, the ordinances developed to carry out the Plan should provide flexibility and performance criteria which produce a choice in the types of living environment and living units available to the public; maximum open space and recreation areas; a pattern of development which preserves trees and habitat, the natural topography and geologic features, sensitive areas, and protects and improves water quality; a creative approach to the use of land and related physical development; an efficient use of land resulting in smaller networks of utilities and streets and lower housing costs; an environment of stability in harmony with the character of New Market proper; and a more desirable environment than would be possible through the strict application of predetermined height, area, and bulk regulations.

Third, in recognition of the special character of New Market, development specifications should be kept to a minimum but require intensive negotiations with the Planning Commission to achieve the Plan's objectives for compact and efficient residential, business, and commercial development suited to the needs of each specific site. For example, building setbacks, bulk standards, lot sizes, impervious coverage, height, landscaping, bufferyards, lighting, walkways, development density, and road standards shall be determined by the Planning Commission for each individual development in the Annexation Area as set forth in the Land Development Ordinance (LDO) Adopted April 2009.

The central reason for the Planning Commission's need for wide authority in setting standards is to provide design flexibility, consistent with public health and safety, for properties that bring a range of differing physical and environmental concerns and for applicants who must develop property and construct buildings in accordance with a unified and coherent plan of development. When determining these requirements, the Planning Commission shall consider such factors as the proposed intensity of the development, use mix, design, compatibility with existing or anticipated development on surrounding lands, and compatibility with the lot density and character of New Market.

Fourth, preparation and approval of a Development Master Plan will be required for any development proposal in the Planning Area. This is designed to achieve a unified scheme of development for an entire parcel which will be consistent with the provisions of the Town's Plan, its planning and zoning ordinances, and its growth policies. The unified development shall be master planned as an integrated project with well-designed and coordinated transitions between various land uses and adjacent existing land uses. A phasing plan for various components of the development shall be approved by the Planning Commission as a component of the Master Plan approval. Once approved, a developer will be obligated to comply with the Master Plan when applying for subdivision approval for each phase of the development.

## **B. Joint Planning with Frederick County**

Annexation feelers, the lack of a supply of available land within the Town, excessive traffic through Town, and the fiscal need for both commercial and residential growth raise important concerns about the future land use pattern. New Market must develop a detailed, cooperative relationship with Frederick County to assure that any growth around its limits is carefully coordinated, consistent in both character and scale, governed by compatible land use regulation, and appropriately served by utilities and roads. While the Town and County now work very well together on sharing regulatory responsibilities and seeking advice and assistance on regional infrastructure issues, this Comprehensive Plan calls for more detailed interjurisdictional cooperation.

Immediate targets include:

1. Define the 30-year annexation boundary, without necessarily zoning it for growth.
2. Document with written confirmation by the County that its purpose in downzoning land around New Market was for the express purpose of preserving that land for future annexation and development.
3. Reservation of a transportation corridor for a future by-pass under Article 66B, §6.01
4. Establish a written commitment by the County to amend the WSAA to earmark and provide adequate utility capacity to serve the areas planned for annexation.
5. Consideration of the adopted joint planning agreement in the County's CIP, providing for funding and implementation of annexation-based infrastructure under the County's capital improvements budget.

6. Restricting further development north and west of the New Market Planning Area which may generate more traffic, which may, in turn, further overburden the Main Street corridor, until a solution can be funded and implemented.

One way of developing this improved cooperation is for the County and the Town to enter into an "intergovernmental cooperative agreement" for an agreed-upon annexation area. Another method is to coordinate the language of the Comprehensive Plans of both jurisdictions. Either method should accomplish the following purposes:

1. To establish a process by which the Town, the County, and the State will achieve consistency between their comprehensive plans, strategy documents, and land development ordinances including adoption of conforming ordinances for growth areas, future growth areas, and preservation areas within an agreed-upon time period.
2. To establish a process for joint review and regulation of developments proposed within the Town or a defined area of the County.
3. To establish the implementation role and responsibilities of the Town, the County, and the State for public infrastructure services, transportation, business development and other key community support activities as part of a regional planning effort.
4. To produce a cooperatively developed and recognized New Market Plan to be amended to the current plans and strategies of the Town, the County, and the State and, at a minimum, consisting of the following elements:
  - a. Designated annexation areas where 1) orderly development to accommodate the projected residential growth within the next 20 - 30 years is planned and 2) commercial, industrial, and institutional uses are planned to provide for the economic and employment needs of the area and to ensure that the area's tax base will be adequate. The annexation area will include a description of the services provided or planned to include water and sewer, transportation, schools, health, police and fire, parks and recreation, and all other necessary community-supporting functions.
  - b. Designated preservation and rural areas where 1) development is allowed at densities compatible with uses that are or may be permitted and 2) publicly-financed infrastructure services are not provided or planned unless the participating governments agree for health or safety reasons.
  - c. Plans for the accommodation of all categories of uses within the planning area, including housing for all income levels and a reasonable allocation of affordable and workforce housing.
  - d. Plans for developments of regional significance, especially those involving transportation, community facilities, and utilities.
  - e. Plans for the conservation and enhancement of the natural, scenic, historic, and aesthetic resources of the area.

- f. Plans for the creation of well-designed communities.

The New Market Planning Area Map shows a land use layout for New Market's proposed Planning Area that considers existing infrastructure and natural features, which logically define a new annexation area boundary. This layout should be the basis for cooperative planning with the County that will allow the participants 1) to shape planning areas based on inherent regional logic and political willingness, and 2) to plan together on issues that need to be examined regionally but to retain local control over implementation and local issues so long as implementation is consistent with an overall multi-jurisdictional framework plan.

## C. Overall Strategies

### **#1 *Minimize the impact of destination and through traffic on the community.***

New Market must assure that its transportation needs are met without degradation of the quality of life or historically significant structures or sites, or change to the historic character of New Market. The elected officials of the town shall take action as necessary to coordinate planning efforts between jurisdictions, citizen's groups and non-governmental agencies, and to promote the interests of the New Market community at all levels of government.

Traffic congestion must be alleviated by providing alternative routes for traffic between areas of residential growth and the primary roads leading to commercial and business districts and other facilities both within and outside of Frederick County. A collector road parallel to Route 144 should be provided to allow traffic from points west of New Market to reach Maryland Route 75. Proximity to New Market is important. The most southerly alignment is the most efficient in terms of traffic mitigation. Specifically, Mussetter Rd. should be extended as part of the County transportation network from its current western terminus to Md. Rt. 75. The County should reestablish this link on its Countywide Comprehensive Plan. The State should also complete the interchange at Interstate 70 and Meadow Road to allow westbound traffic to enter and eastbound traffic to exit.

### **#2 *Maintain and establish the physical connections needed to enhance the walking scale of the town.***

New Market should be established as a model pedestrian/bicycle friendly town by providing sidewalks and paths for the safety and convenience of motorists, pedestrians, residents, and visitors. To this end, the town shall include provisions for bicyclists and pedestrians in upgrades and newly constructed roads, require that sidewalks and paths be included in any new development, and conduct studies to identify scenic lands and roadways that need improved pedestrian and bicycle access. The sidewalks and alleys that now frame the town should be used as the backbone of an expanded network that connects new development, parks, and the historic district with every part of New Market.

### **#3 *New and renovated structures in New Market should be compatible with its historic architectural forms.***

A commitment shall be made to encourage variety of shape, roof line, setback, color, texture, and other factors that are part of the visual or aesthetic urban form, but to especially encourage those which are compatible with or augment the traditional historic architectural

forms which make the Town of New Market unique. Compatibility will be gauged by such things as the size and configuration of buildings, the use of materials and landscaping, the preservation of existing vegetation and landscape features, and the location of entrance and exit routes on the project site. Careful analysis will be given to design features which accentuate open space, improved recreational opportunities, protection of natural features, and sensitivity to surrounding development, especially that of a historical nature.

The town will continue to uphold and enforce its architectural regulations within the Historic District and other areas where architectural review is mandated. The Guidelines, which have been drawn up for the Historic District shall be immediately available to all residents, especially newcomers. The Historic District Commission shall regularly hold well-publicized seminars, which address the basic ideology behind its regulations, educate citizens, and thereby strengthen the support needed for their continued enforcement throughout the community. The Historic District Commission/Architectural Review Committee shall review proposed plans and apply them according to the Guidelines. The HDC Guidelines outline appropriate community design in terms of setbacks and positioning of structures for new structures and development. The HDC/ARC is encouraged to expand upon those guidelines in a context sensitive fashion in coordination with Maryland Historic Trust.

The town shall plan for future preservation efforts, encouraging and assisting in preservation and rehabilitation of existing structures by:

Continuing to uphold and enforce design guidelines for the restoration and/or modification of buildings or sites identified as having historic or cultural significance and for the design and placement of buildings within or adjacent to identified historic buildings or sites.

Requiring that historic buildings or locations be preserved or incorporated into the design of new development as exemplified by the Manor House in Brinkley Manor subdivision.

Supporting the Maryland Historic Trust and related County efforts to identify, inventory, and mark all historically and culturally significant buildings and sites identifiable, and investigate measures for historic preservation of those sites not already protected.

**#4      *Expand the current growth area boundaries to better reflect property ownership patterns and potential development opportunities.***

Development outside the Town limits of New Market will profoundly affect its quality of life and financial viability. To assure itself a significant voice in decisions that affect its future, New Market proposes to expand the current Annexation Area for joint planning and potential annexation purposes. The Town has considered existing roads, natural features, especially those affecting the watershed, and common property ownership to logically define a new growth area. The redefined area is shown on the accompanying map. Any growth in this area will impact the future of New Market as a viable municipality and must be carefully coordinated with the County in terms of zoning categories, roadway infrastructure, and water and sewer provision.

This approach to regional planning within the County is referred to as the "Community Concept" and "encourages compact and sustainable development and economic growth in suitable Plan-designated areas. To further the Community Concept, coordination, cooperation, and resolution of conflict between the municipalities, the County, and the State is of prime importance. Interjurisdictional coordination and cooperation is integral to the Community

Concept. Processes to effectively resolve issues of mutual interest, needs, and priorities between the municipalities, the County, and the State should be on-going in the implementation of this Plan."

**#5      *Encourage cooperative and coordinated planning in the New Market region for the benefit of both the town and the county***

"Suburbanization" is a well-known national pattern. It is driven by the spread of homes to easy-to-develop land, the demands of the automobile, and large national merchandisers. Downtowns that have been successful in combating fringe development have accomplished it by occupying specialty niches unfilled by the competition and creating an attractive, pedestrian-oriented alternative to the parking lot wastelands of auto-oriented convenience shopping. Regions that have been successful in controlling fringe development have developed mechanisms to coordinate public policy planning and decisions among state, counties, and municipalities. Maryland's "Smart Growth" principles support this approach by calling for directing economic development to existing communities, promoting infill development, preventing sprawl outside growth areas, limiting capital improvements in rural or non-growth areas, preserving open space and environmentally sensitive areas, and promoting mixed use development.

It is important to the improvement and sensible development of New Market that the town works closely with Frederick County officials. Land use and development decisions outside the town limits profoundly affect the quality of life within the town. The town has previously proposed and will continue to pursue a Joint Planning Agreement with the County.

The developed land uses of the town are compact and uniform with sprawl notably absent within the Town limits. The high percentage of developed property means that annexation is the safety valve for growth and that it will be the means of property control preferred by developers – it offers more site selection and lower cost. Serious annexation interest has been expressed by developers and landowners north, east, and south of New Market.

This Plan has outlined a layout for New Market's proposed Planning and Annexation Area that considers existing roads and natural features, especially those affecting the watershed, which logically define a new growth area boundary. This layout should be the basis for cooperative planning with the County that will allow the participants 1) to shape planning areas based on inherent regional logic and political willingness, and 2) to plan together on issues that need to be examined regionally but to retain local control over implementation and local issues so long as implementation is consistent with an overall multi-jurisdictional framework plan.

**#6      *Provide the necessary regional public facilities and services***

As part of this planning process, the Town of New Market has recognized that the Town and County may impact each other with unintended consequences. The Town and County do not provide the same services and, although we may share many of the same long run goals, we assign different values to each. Thus, our methods for achieving these goals are different and this sets the stage for unintended consequences. Nonetheless, this plan outlines tools, mechanisms and strategies for cooperative planning in order to achieve mutual goals.

## **#7 Explore a variety of methods to discourage premature development.**

*This exploration shall include but not be limited to:*

- finding suitable, alternative incentives to offer landowners in exchange for their designating land uses compatible with the Master Plan in cases of rezoning requests;
- incorporating these incentives into the Zoning Ordinance;
- encouraging the use of a system of checks and balances with respect to water and sewer allocations; and
- requiring applicants to submit capitalization plans as the first step in the overall improvement plan submission process, (i.e. prior to negotiation of guarantees), which include financing options for necessary improvements to public service facilities prior to allowing development to avoid problems with capability or funding once building commences.

## **#8 Streamline the Planning Process**

The Planning Act of 1992 directs local governments to streamline regulations to assure achievement of growth management and resource protection goals. Streamlining, in the context of growth management, has a substantive focus -- the Act specifically encourages streamlining within areas designated for development and growth. This Plan designates New Market as the center of a larger growth area and all of the town's development regulations are candidates for streamlining.

The Planning Commission should play a key role in all issues of physical development. The Commission should advise the Mayor and Council on proposed projects, programs, and activities giving particular emphasis to the consistency of proposals with the goals and policies of the Comprehensive Plan.

The development regulations of the town must be modified to achieve consistency with this Plan and to efficiently carry out its purposes. These modifications shall follow several guidelines:

Clear areas of responsibility will be assigned within town government to guide development applications through the regulatory process.

The town's policy shall be to make its development control process clear, current, consistent, and accessible to all concerned and ensure that it does not drive up the cost of construction or sales through unnecessary regulation or complication.

Any required interagency reviews, e.g. with Frederick County, SHA or other, will be conducted in a coordinated and concurrent manner.

All review procedures should be examined to promote administrative efficiency.

All review periods should be time certain.



Regulatory requirements for establishing or expanding businesses should be examined to remove any unnecessary procedures and improve the timeliness of review.

All development regulations should be examined so that unnecessary impediments to Plan-designated growth are systematically eliminated and flexible means of granting relief are introduced.

Attempt to standardize the application process, using standard forms where possible, and to make the necessary requirements/regulations uniform, so that conformity will be encouraged and necessary requirements can be met in a timely manner. A municipal forms procedure shall be established.

New Market will cooperate with the County to assure that any growth around its limits is carefully coordinated, consistent in both character and scale, governed by compatible land use regulation, and appropriately served by utilities and roads. The town will also continue to participate in any opportunities offered by the County to engage in joint land use decision making for the areas outside the town limits.

Regulatory consistency with this Plan is required in all implementing ordinances, capital improvement programs, and functional plans. This Plan is the dominant policy document and guide for all other land use plans, programs, and regulations and is to be directly linked to the drafting, interpretation, application, and amendment of land use laws and programs.

A formula shall be devised to enable planners to estimate the cost to the town for each residential, commercial, and office/research or light industrial unit in place to more accurately estimate the financial impact each development activity will have, and serve as a guide to setting up fee schedules and the like, should these be proposed.

The town in accordance with the Planning Act of 1992, shall consider the need to prepare and adopt a public facilities financing plan to determine requirements and costs of specific development and propose suitable funding mechanisms.

**#9      *Future use and development of the Historic District should reflect the physical development and range of uses current in the Year 2010.***

The Historic District serving residents and visitors, providing visitor-oriented uses such as a variety of shops, services, bed and breakfast inns, and the like, shall be preserved and enhanced. Specialty commercial uses may be accommodated to allow for new uses complementary to existing development, subject to all development standards and regulations. Businesses offering goods and services consistent with the historic character of the area, its current uses, and its residential base shall be encouraged and associated residential use requirements shall apply to encourage coexistence in all commercial zones.

**#10      *The scale and appearance of Historic District businesses must strongly reflect the historic, small town atmosphere of New Market.***

The town shall plan for future preservation efforts, encouraging and assisting in preservation and rehabilitation of existing structures, such as: continue to uphold and enforce design guidelines for the restoration and/or modification of buildings or sites identified as having historic or cultural

significance and for the design and placement of buildings within or adjacent to identified historic buildings or sites; preserve and enhance the visitor-oriented, historic permitted uses in the antique/residential area; and require that historic buildings or locations be preserved.

**#11 *Promote complementary commercial and light industrial development outside of the Historic District.***

Areas which are deemed appropriate for light industrial and office/research development shall be identified and annexation studies shall be undertaken to look for industrial or office/research uses which would serve the needs of the town. Industry must have access to transportation facilities. Areas considered best situated for light industrial or office/research use are those close to an existing or easily expanded transportation network, and near available utilities. Campus-like, non-polluting light industrial or office/research developments with low-rise buildings and landscaped or natural open spaces shall be encouraged in preference over multi-story, office buildings. Proposals for conversion to industrially planned lands can be considered appropriate where it will result in a balance between housing and employment opportunities, would reduce potential commute distances, and would be consistent with the visions and policies of the Master Plan.

**#12 *The town shall protect its natural water supply, and encourage stewardship of the Chesapeake Bay and its tributary lands.***

The town shall take every step possible to ensure the quality of its groundwater and surface water sources and implement wellhead protection measures when possible. The town shall also require that all development be created using natural groundwater sources and not imported surface water sources.

**#13 *The town shall institute zoning practices which protect and enhance the environment.***

These practices shall:

- Encourage sound management and protection of groundwater and surface water resources and their quality.
- Promote diligent, efficient use of water resources and discourage wasteful practices.
- Preserve or enhance aesthetic qualities of natural drainage courses in their natural or improved state compatible with flood control measures, economic, environmental, and ecological factors.
- Direct development activity away from 100-year historic and annual floodplain areas to minimize health and safety hazards, property loss, and environmental disruption, and to foster stream enhancement, improved water quality, and recreational opportunities.
- Prevent construction of large contiguous paved areas unless adequate measures are ensured to reduce runoff.
- Encourage disposal of storm and domestic runoff on the development site, rather than directing it to draining courses.

- Discourage urban uses and limiting development in designated aquifer recharge areas.
- Require areas chosen for expansion to apply a groundwater use plan as part of their site plan application.
- Ensure that environmental impacts receive equal consideration along with economic and engineering factors as a part of the review process. Included in this should be an evaluation of transportation and air quality effects of major employment generating projects in determining these impacts.

#### D. Land Use Policies

Although it is recognized that uniformity has value, the town shall continue to use zoning categories, land use designations, and density guidelines which may differ from those used by the County and other municipalities, because these unique representations are necessary to preserve its distinctive character. For example, commercial and residential uses shall be encouraged to coexist in the same structural unit, i.e. a residence over a commercial shop or a shop within a residential structure and, along the main approach to the town, development shall preserve and enhance the historic ambience of New Market. The current residential/antique district should be expanded to include areas that are logical extensions of the uses and character of the current Historic District.

Noise abatement is important to the quality of life. If residential development takes place adjacent to major transportation routes, a variety of approaches shall be considered to mitigate noise impacts, including but not limited to: encourage large lot, single family development to reduce the number of people impacted by noise; encourage deep lots to reduce noise impact, especially those lots abutting a thoroughfare; and promote developer-supplied effective barriers for new development to attenuate noise, either by physical construction or landscaping.

To assure new construction is consistent with adopted growth policies, and expansion of development is balanced, the Master Plan shall be evaluated no less than every 5 years.

Areas chosen for annexation/development shall be subject to public facilities concurrency and have an adequate level of school facilities; fire, rescue, and police protection; water and sewer facilities; transportation support; recreational opportunities; and other public facilities as identified.

Requests for zoning changes must contain an evaluation of social, financial, and environmental elements, which would be enriched by a change in the land use, and further, the cumulative advantages of said change must be shown to offset the disadvantages.

New Market has long had a reputation for its high standards of architectural style and authenticity in its Historic District; this same attention to detail shall be applied uniformly to future annexed areas as well through the use of architectural guidelines. New development shall not adversely affect the character of existing areas. The Town has adopted a PDD floating zone (Planned Development District) for residential development, as TRC (Town Residential/Commercial Mixed Use District) and a TBP (Town Business Park District). These overlay zoning provide for traditional streets laid out in a grid or modified grid, with alleys (containing garages

and garage doors) consistent setbacks, mixed use zoning, village greens and streets containing commercial space with upper level flats and offices, architectural, urban and landscape design standards, narrow streets, small turning radii at intersections, and the like. The town shall also consider modification of the PDD regulations to provide incentives for use of the overlay zone for residential and other parcels allowing residential uses in exchange for increases in density not to exceed the maximum allowable in the zone. The Town shall now consider the development of an Economic Development Flex Area to encourage employers to move their businesses to areas designated as MCI. The Economic Development Flex Area is contemplated to differentiate itself from TBP in the respect that it will not be considered as traditional retail commercial.

In planning for higher density living areas, the following basic principles shall be followed:

- Requests for higher residential densities must contain a statement of established need for increased density which can be justified by factual evidence;
- For reasons of economy and efficiency, high density residential areas shall have gravity flow to sewage facilities, averting the need for pumping stations whenever possible;
- The higher density residential areas shall have the best possible transportation access in order to reduce traffic congestion; and

For large Planned Urban Developments, the town must be able to exercise some discretion in locating public facility sites within approximate boundaries specified by the Master Plan. Those areas designated for the highest densities shall be those closest to the utilities and public facilities. The town shall also adopt design standards compatible with overall planning objectives that encourage creative solutions rather than discourage them. Criteria shall be set which allow for flexibility in siting of various land uses within planned unit developments and traditional neighborhood developments. For example,

- Clustering and other similar zoning approaches may be considered to promote a reasonable level of compatible yet affordable housing;
- All residential parcels exceeding 40 acres are encouraged to be compatible with the Traditional Neighborhood Development concept;
- A planned-unit shall be an entity with a distinct character in harmony with surrounding development; and
- With the exception of mobile home parks, a development may include a mix of housing types including attached homes, townhouses and duplexes, within the average density allowed, subject to zoning restrictions.

The town shall continually monitor the zoning categories in the Historic District to ease land use and permit administration, to eliminate non-conformities, and to more clearly delimit the range of uses allowed and the desired mix of residences and businesses. This monitoring is necessary to maintain a vibrant and commercially successful Historic District.

The town shall consider creating a new zoning category which allows for development of office/research and limited manufacturing uses to provide for the appropriate location of office and nuisance-free research park uses. Warehousing, wholesaling, and general manufacturing

uses shall be prohibited in such areas. Development in such a district shall be characterized by an absence of nuisances in a clean and aesthetically attractive setting. Such a district should permit limited manufacturing, fabrication or assembly operations which would, by nature of the product or magnitude of production, be compatible with research, professional or business offices, yet in keeping with the character of the neighborhood. Commercial uses shall be limited to those which are primarily oriented toward servicing those businesses located within the office/research industrial district.

Special purpose uses to fulfill specific high demand needs, such as light industrial parks and shopping centers, shall not be objectionable to other uses or adjacent properties from the standpoint of noise, dust, smoke, light and so forth, and not destroy or damage or create extra maintenance costs. Each commercial or industrial area shall be located and designed to minimize negative factors such as traffic volume, noise, and visual impact on nearby residential and historic areas.

Strip commercial districts characterized by shallow commercial frontage, multiple curb-cuts, and a variety of unrelated businesses shall be prohibited. Instead, retail sales and service type commercial and office/research uses shall be encouraged to locate in identifiable and organized groupings.

Neighborhood business areas shall be pedestrian-oriented, that is, drawing their customers primarily from the residences in the immediate vicinity rather than from outside the town. Ideally, it will be desirable to have commercial areas convenient on each side of I-70 in order to reduce traffic on Rt. 75, with each area having its own zone of influence.

Home occupations, either major or minor, in which a resident operates a small service business within the home in compliance with town regulations and standards shall be encouraged. In addition, the town should consider the need to add a zoning category which allows for joint residential and cottage industry use of a property.

The town shall develop a package of incentives and encourage the following uses of open space: additional active parkland, development of designated parkland, increased historic preservation, additional natural open space, preservation of trees and other vegetation, and preservation of natural drainage and aquifer recharge areas.

## **E. Standards, Guidelines, and Administrative Measures**

**Actions to Maintain Community Identity:** A community action committee shall be established whose foremost mission is to preserve and promote the values and sense of community which current citizens appreciate. This can be accomplished through organizing a series of neighborhood functions designed to bring children, young people, and adults together as a community on a regular basis throughout the year. Such events will also form a basis for better public relations both internally and externally.

A landscaping and project maintenance plan shall be submitted to the town as part of every project application. The town will adopt an amendment to the zoning ordinance detailing the requirements of such a plan. Landscaping, especially trees, shall be provided around the boundaries of a project to lessen the visual impact of the development. A zoning provision shall

be established which protects trees and shrubs having a trunk diameter greater than 6 inches measured at a level of two feet above the ground.

A sketch plan specifically for the purpose of ensuring compatibility shall be proposed by an applicant prior to consideration and approval of preliminary plats for parcels larger than 3 acres.

Existing programs of sign control shall be continued.

**Actions to Better Manage Uses with Special Impacts:** Religious institutions will be allowed in residential neighborhoods if sufficient off-street parking is provided and the design of the facility is consistent with the character of the neighborhood.

Clubs and fraternal organizations shall be limited to commercial areas. The use of a single-family home in a residential area for a club or fraternal organization shall not be permitted.

Facilities providing health care for the elderly and convalescent shall be encouraged. The Zoning ordinance shall guide the placement and standards for development of such facilities. Proposed facilities shall be evaluated based on the location, impacts on services, and neighboring properties.

Building materials and landscaping shall be used to make these special impact land uses less visually obtrusive from neighboring properties.

The town shall develop standards for the location of proposed private schools, which address required off-street parking and street frontage for dropping off and picking up students, access via town streets, noise control, minimum lot size per pupil capacity, and required landscaping and other visual/noise barriers if the proposed school is to be located adjacent to a residential area.

**Actions to Improve Roads, Parking, and Walkability:** The town should conduct a study of future needs for off-street parking. If a requirement is foreseen, plans will be developed for site acquisition, funding, and construction. Existing parking ordinances shall be reviewed and enforced. Sufficient off-street parking for residents shall be included in the design of all residential projects. Off-street parking for guests shall be included in the design of all multifamily projects.

Conduct a review of the town's ordinances as they pertain to transportation.

Development plans shall assure the ability of residents to walk or bicycle to parks, schools, and residential service areas without crossing uncontrolled crossings on arterial roads whenever possible. Internal roads shall be designed to serve the project, and access to through-traffic shall be discouraged. Developers shall provide easements for turnouts and shelters for buses, to be incorporated into project design for projects along proposed transit routes and to be implemented at the time of project construction in cases where transit routes already exist. Provision shall be made for the safety and integrity of local neighborhoods by authorizing, where necessary, the prohibition of entry to and/or exit from neighborhood streets by means of islands, curbs, traffic barriers, or other roadway design features.

The town shall maintain and periodically update an inventory showing the legal status and physical condition of its streets and alleys, and designating priorities and proposed schedules for maintenance and improvements. The town should designate specifications for the various types

of roads, and specify the maximum traffic loads for which each type of road is intended in order to update its road design standards.

The town will enforce requirements that roads be constructed to the appropriate specifications and engineering standards. The town will also develop and apply methods of assessing and apportioning developer fees and/or other assessments to help pay the cost of road improvements and maintenance. New developments shall pay for those traffic studies deemed necessary by the town in cases where the development is expected to have a traffic impact.

**Actions To Better Evaluate Annexation Proposals:** Prior to the annexation of lands to New Market, the applicant shall submit a plan demonstrating the financial feasibility of providing services and facilities to the area proposed for annexation as well as any other information required by the Planning Commission such as a traffic, environmental impact, and fiscal studies.

Criteria to be considered in establishing zoning status of incoming parcels shall include:

- capacity of facilities and municipal and/or county services;
- environmental impacts;
- existing land uses, if any, on and in the vicinity of the annexed land;
- the extent of any natural habitats and features of the landscape which should be preserved; and
- demonstrate need for additional housing, retail commercial uses, other commercial uses, and office/research and light industrial uses as they apply to the specific request.

A set of guidelines and checklists shall be developed to ensure consistency and completeness of requisite petitions, surveys, advertising, record-keeping, and the like when an annexation is proposed and subsequently acted upon.

**Actions to Improve Design Review:** Design review of materials and landscaping shall be included in the application process, especially with respect to the natural features of a site and preservation of view scapes.

- Homes should generally be in one or two story buildings. Where permitted, buildings exceeding two stories shall follow the contour of the site and be "stepped or terraced.
- To avoid a dormitory or high-rise image, multifamily projects shall generally consist of smaller, multiple buildings (typically 4 to 12 dwelling units per building) rather than a few large multifamily buildings.
- Any hillside or hilltop areas that may be included in a project shall be reserved for open space or one and two story buildings that can be integrated with the natural landscape.
- Buildings on hillsides shall be sited with respect to existing native vegetation or landscaping to reduce their visual prominence, and not impinge upon the view

scape of existing dwellings. Whenever possible, structures shall not extend above the existing tree lines.

**Actions to Ensure Adequate Open Space:** All projects shall include adequate open space. Open spaces shall be dispersed throughout a project, unless it is necessary to create a single large open space to preserve an important natural habitat. A residential project should be located adjacent to an existing residential development and/or should be in undeveloped areas of sufficient size to ensure that a residential environment can be maintained and with sufficient space to provide any needed buffers for adjacent or proposed single-family development.

- To achieve open space guidelines, a developer may be allowed to group the homes at somewhat smaller lot sizes than would otherwise be permitted, provided the average density does not increase.
- In areas identified as having particular environmental concerns, no more than 30% of a lot shall be covered with an impervious surface.
- All residential development or residential portions of multi-use PDDs shall contain a minimum of 30 percent of the land in natural or improved open space, exclusive of roadways, parking lots, wetlands and steep slopes.
- Buffering shall be required between adjacent multi-family projects and single-family developments located along common boundaries, using a buffering adjacency formula.

**Actions to Improve Access to Recreation:** Recreational facilities for the use of the residents shall be included in project design.

- Each park or recreational facility shall be planned by licensed professional architects, landscape architects, or other specialists so that the highest degree of park design can be maintained.
- Space standards shall be met even though limited finances may delay park development.
- Open space designated for recreational purposes is intended to be useable, both for active pursuits such as ball fields and for passive activities such as picnic areas, nature trails, and the like, and shall not include wetlands and steep slopes.

The town shall work to encourage local and County Parks and Recreation Councils to work in concert to promote the use of school buildings and grounds during the summer for community recreational activities.

The town shall encourage the County to establish park development adjacent to school sites and formation of joint use agreements between school and park districts.

**Actions to Improve the Provision of Community Services:** Applicants shall be prepared to address the community-wide impact of each proposed land use on the need for public facilities



and services, related transportation and housing consequences, and their subsequent effects on the town's resources.

Proposals for those areas planned for high density residential developments shall be reviewed for the purpose of ensuring that the town and/or county is able to support the proposed development before zoning and/or plat approval, subject to analysis of public facilities and financing requirements for anticipated development.

To determine the number and location of new school sites, program capacity standards established by the school board shall be used in addition to related capacity formulas.

The town shall conduct a study to determine the need and level of law enforcement required. The town shall determine its financial capability to implement and maintain its own police department. The town, if it is unable to support its own force, should reserve land for the purpose of providing a future location for a substation of the Frederick County Sheriffs Department. The town shall determine if it has the financial capability to enlist in the Resident State Trooper program.

Consideration should be given to the design standards for public libraries as specified in the Frederick County Comprehensive Plan, especially those relating to minimum square footage, and said standards should be updated to the minimums established by the American Library Association currently in effect at the time of new construction planning for libraries serving New Market residents, regardless of the status of existing branches already in existence throughout the County. A committee shall be appointed by the Town Council at the time new construction planning commences, who will participate with other community leaders and the Library Board of Directors in devising appropriate library facilities for the area.

The town with the aid of State and Federal agencies shall determine its capability to design, build, and maintain a nature and wildlife center and recreational parkland in the open space adjacent to the Royal Oak Subdivision.

**Actions to Better Manage Parking Needs:** The town will conduct surveys to determine parking needs and alternative solutions.

New developments shall pay for those parking studies deemed necessary by the town in cases where the development is expected to have a parking impact.

On-street parking shall be provided in the rear of commercial and retail establishments as opposed to in front, whenever feasible.

Adequate off-street parking shall be provided, and the area landscaped to reduce its visual impact from the adjoining properties. Massive paved parking lots shall be avoided, both from an aesthetic and ecological standpoint.

A parking and circulation plan shall ensure that trees and landscaping are provided to break up the amount of paved surfaces and that traffic entering and exiting commercial and light industrial or office/research areas does not adversely affect any nearby existing or future residential developments.

New commercial and office/research or light industrial uses shall be subject to design and parking standards which include: the number and location of allowed curb cuts; landscaping and design of parking areas, emphasizing parking in the rear of buildings; location, size, number, lighting and construction of signs; and configuration and design of commercial and industrial buildings

**Actions to Improve Commercial Site Design:** All commercial development or commercial portions of PDDs when so permitted by the Zoning Ordinance shall contain at least ten percent of land area in natural, improved, or functional open space, exclusive of roadways and parking lots, and exclusive of the open space requirement for residential use.

Public improvements shall be provided by the developer to support a commercial area, such as landscaping on existing streets, street furniture (benches, waste receptacles, planters, etc.), and uniform street and other public signing.

Highway Service Area commercial uses shall be designed in a manner compatible with the spirit and intent of preserving the historic character of the area.

Strip commercial development for great distances along Rt. 144 shall be prohibited for safety and aesthetic reasons.

**Actions To Protect Floodplains and Wetlands:** The town shall adopt and maintain standards for development on or near wetlands and floodplains, so as to protect these critical resources. No development shall be allowed within a 100-year floodplain, historic or annual, and there shall be a 25-foot building setback in areas adjacent to these floodplains

Consideration shall be given to modifying the zoning ordinance to attach special conditions for properties located in an area subject to flooding to reduce the risks of property damage or injury. These conditions could include underground storm drainage systems capable of handling run-off from a 100-year storm, limits on the amount of pavement and other impermeable surfaces, and drainage fees to help pay for downstream improvements needed as a result of development

**Actions To Improve Environmental Awareness And Monitoring:** The town shall establish a Conservation Committee whose primary function will be to advise the Planning and Zoning Commission. Its secondary functions will be to:

- review all construction applications to assure that conservation design guidelines are followed;
- encourage good soil conservation practices and examine impacts of proposed development relating to this as a routine part of the improvement plan evaluation;
- act as liaison with federal, state, and local officials to promote policies beneficial to conservation of natural resources, vegetation, and wildlife, see that all regulations are properly administered and enforced, similar to the function performed by the Historic District Commission;
- coordinate to achieve adequate water supply quality and protection;

- oversee recycling efforts to ensure residents understanding of and compliance with new town and County regulations; and
- arrange to have the Town engineer monitor construction sites to see that conservation measures are being maintained as agreed upon.

The town shall institute policies and programs to protect and enhance recreational linkages and natural stream areas.

## **XI. THE LAND USE PLAN**

The Land Use Plan (Map 3) shows the distribution of all land use categories.

The Historic District Residential Merchant area should remain unchanged as to its current zoning intent and mix of uses: 1) to safeguard the heritage of New Market by preserving the district herein which reflects elements of its cultural, social, economic, political, or architectural history; 2) to stabilize and improve property values in such a district; 3) to foster civic beauty; 4) to strengthen the local economy; and 5) to promote the use and preservation of historic districts for the education, welfare, and pleasure of the residents.

The Residential Merchant area should remain unchanged as to its current zoning intent and mix of uses so as to preserve the historic character of areas within the Town of particular historic significance, and to preserve, encourage and strengthen the historically appropriate mixed residential and commercial character of the district, while allowing limited retail and commercial uses which promote and enrich tourism.

Low Density Residential areas are primarily for single-family detached homes, together with other facilities common to residential areas. Such a district may incorporate large lot sizes (one acre or more) in which the green space desired is entirely within the lot or it may incorporate the formation of green space communities in which the lot sizes are made smaller and the area which results from the reduction in lot size below the general standard for the district be provided and maintained as recreation and open space for community residents.

Medium Density Residential areas include the sections of Town where there is or should be a mixture of dwelling types. Single-family, duplexes, and attached housing and limited commercial and service uses would be allowed. The allowed maximum density would be two units per acre.

Planned Residential Development blends low, medium, and high residential densities and building types. This planned development approach combined with clustering to protect open space and sensitive areas is particularly suitable for large plots of land in single ownership with good access to roads and community facilities. It allows for a high standard of land planning and site design because the project can be planned as a single, complete development to be constructed over a period of years as part of a master plan rather than as a series of individual, disconnected parcels. In the PRD zoning district, specific development zones are not pre-mapped. Rather, development categories are expressed as percentages of the completed project. Open space, for example, may be required to be 30% of the total land area with low density residential at 35%, high density residential at 10%, and so on. Even though all residential densities and building types are allowed, maximum or minimum limits would be established to govern the number of units allowed in each density and building type category with an overall maximum density of 3.5 units per acre.

A mixed density /planned development approach is particularly suitable on the large, single-ownership parcels in the northern and southern portions of the Growth Area. Preparation of a PRD zone for New Market should pay particular attention to the varied topography around the town, the need for a bypass to ease traffic on Main Street, the need to protect and nourish downtown businesses, the continuing need for affordable housing, and the need for a very

strong plan review process so that the advantages of flexibility, better design, and a higher level of environmental protection are ensured. This is similar to the County's PUD designation.

Mixed Residential/Service areas are intended to provide residential areas with the convenience of a limited number of frequently used services in close proximity to their homes. Permitted uses are intended to be of a type, and developed in such a manner, as to be compatible with the residential environment. The uses allowed should be similar to the current Residential Service District with the addition of selected neighborhood retail uses and should allow live/work situations, as does the Residential Merchant District. This is similar to the County's Village Commercial land use.

Mixed Commercial areas are intended to be central shopping, service, office, and entertainment centers for the community. The facilities should be grouped together in an attractive and convenient manner with particular attention paid to the safety of pedestrian travel and the protection of adjoining residential areas. This district requires excellent vehicular accessibility from the Town and the region. This designation would be most compatible with the County's GC designation.

Mixed Commercial/Industrial areas are for commercial environments that are enhanced by recreational, employment, light industrial, storage, distribution, and similar activities and to assure the compatibility of the mix of uses by incorporating higher standards of land planning and site design than could be accomplished under conventional zoning categories. These uses do not have objectionable operational aspects such as noise, smoke, odors, or hazards from fire. They are appropriate when infrastructure services are in place and nearby activities are protected from the impacts of the operations. This is most similar with the County's Mixed Use Development land use

Open Space areas are intended to provide natural areas for passive recreation with active recreation limited to walking, biking, and nature paths. This district is similar to the current Open Space District but would not allow schools, churches, active recreation uses, or farms. This is consistent with the County's Public Parkland/Open Space.

Agriculture areas are similar to the current Agriculture District and are to preserve productive agricultural land and the character and quality of the rural environment and to prevent urbanization. This is consistent with the County's Agricultural/Rural land use.

Institutional areas are meant to identify and preserve land for essential public uses such as education, government, or utility facilities. This is consistent with the County's Institutional Land Use.

Economic Development Flex Area is intended to provide maximum flexibility to encourage employment related business development that it both sensitive to the areas designated with relation to its surroundings as well as appropriate for the desired objective. These uses do not have objectionable operational aspects such as noise, smoke, odors, or hazards from fire. They are appropriate when infrastructure services are in place and nearby activities are protected from the impacts of the operations. This designation would be most compatible with the County's ORI designation.

## **XII. FIVE YEAR ACTION PLAN [Update]**

### **YEAR ONE**

#### Growth

Begin a formal effort with the County to assure that any growth around New Market town limits is carefully coordinated, consistent in both character and scale, governed by compatible land use regulation, and appropriately served by utilities and roads. As part of this effort, the town's annexation policies should be communicated to Frederick County officials and a mechanism developed to engage in joint land use decision-making for the areas outside the town limits. These discussions should include the creation of a growth boundary for New Market recognized by Frederick County for infrastructure, annexation, and regulatory purposes.

#### Regulations

1. Develop a public facilities concurrency policy that addresses the need for future development to be served by community water and wastewater facilities as well as the issues of school crowding and road capacity and maintenance.
2. As part of the concurrency policy, devise a formula to enable planners to estimate the cost to the town for each residential, commercial, and office/research or light industrial unit in place to more accurately estimate the financial impact of each new development activity.
3. Develop a water supply plan and a water budget for the town and its supporting subdrainage basins. Each development shall be required to share in development of water supply, commensurate with the amount of water required and the available groundwater recharge, and consistent with the municipal water supply plan. Consideration shall also be given to developing an ordinance that requires development projects to maintain pre-development quantity and quality of groundwater recharge.

#### Transportation

Use current traffic studies to determine the amount of traffic using New Market for access to other roads and confirm the need for a collector road parallel to Rt. 144 and the need to complete the interchange at I70 to allow westbound traffic to enter and eastbound traffic to exit.

## **YEAR TWO**

### Transportation

1. Based on the regional traffic study, initiate discussions with the appropriate private and public parties to achieve solutions.
2. Conduct a study to determine future needs for off-street parking and devise methods to accommodate the need.

### Regulations

Begin revisions to the zoning and subdivision ordinances. All directives contained in the Master Plan shall be addressed.

## **YEAR THREE**

### Regulations

1. Complete revisions to the zoning and subdivision ordinances.
2. Prepare and adopt new road design standards and specifications.

### Administration

1. In coordination with the zoning ordinance revisions, clarify and streamline the regulatory process through standardization, time certain reviews, and consistent application of development controls.
2. Evaluate all design review procedures including those for the Historic District and modify as necessary to ensure consistency with other regulatory and administrative procedures.
3. Ensure that environmental impacts receive equal consideration along with economic and engineering factors as a part of the review process.

## **YEAR FOUR**

### Regulations

Evaluate the process for zoning changes per the guidelines spelled out in the Master Plan.

### Community Facilities

1. Conduct studies to determine the need and level of law enforcement required, the standards necessary for library provision, and the capability of the town to design, build, and maintain a nature and wildlife center.
2. Develop a package of incentives and encourage the following uses of open space: additional active parkland, development of designated parkland, increased historic preservation, additional natural open space, preservation of trees and other vegetation, and preservation of natural drainage and aquifer recharge areas.

## **YEAR FIVE**

### Master Planning

Evaluate the current Master Plan.